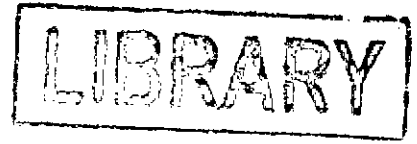


**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**



M.A.Nos. 355 and 356 of 2019
(Arising out of OA 350/1491/2013)

Order dated: 19.07.2019

**Coram : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member**

Union of India & Ors. Applicants.

Versus

Adinath Majumdar..... Respondent.

For the applicant : Mr. S.K. Ghosh, Counsel

For the respondents : Mr. S.K. Dutta, Counsel

ORDER (ORAL)

Per Dr. Nandita Chatterjee, Administrative Member:

An O.A. bearing No. 1491/2013 had been filed by the applicant

(Respondent in the present M.As.) praying for the following relief:

- "a) An order for quashing and/or setting aside of the charge memorandum being C No. -II(IO)34/Con/Vig/ST/ Kol/13/30510 dated 27.11.2013 issued by the Commissioner, Service Tax being the disciplinary authority being Annexure A/2 to this application;
- b) A direction upon the respondent authorities to disburse all the retirement benefits on his date of retirement i.e. 30.11.2013.
- c) A direction upon the respondent authorities or to proceed further on the basis of the said charge memo dated 27.11.2013 till the disposal of this application;
- d) Stay of operation of the said charged memo dated 27.11.2013 issued by the respondent No. 2."

2. The Tribunal, while disposing of the O.A. No. 1491/2013, on 03.01.2018, passed the following orders:

"4. Accordingly, we direct the respondent authorities to

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complete the proceeding within a period of 4 months from the date of receipt of this order, failing which the entire proceeding against the applicant will be abated. The decision to be taken therein shall be communicated to the applicant forthwith."

3. An M.A., bearing No. 332/2018 arising out of O.A. No. 1491/2013, was filed for extension of time and the Tribunal, accordingly, vide order dated 11.01.2019 allowed the same permitting the Respondents to complete the disciplinary proceedings within two months time. As the Respondents, however, were not able to complete the proceedings within the time granted by the Tribunal on 11.01.2019, they have now filed an M.A., bearing No. 355/2019, praying for further extension of time to complete the said proceedings and another M.A. 356/2019 seeking condonation of delay in filing the M.A. for the purpose of extension of time.

4. The contention of the Respondents is as follows:

That, the applicant had retired from Government Service on 30.11.2013, and, as such, disciplinary proceedings relating to the applicant is to be concluded by U.P.S.C. and, for that purpose, all his case records are to be submitted by hand to Ad.V. C.B.I.C. as per U.P.S.C. proforma.

That, for completion of the instant disciplinary proceedings, active persuasions are being made simultaneously with 4 separate formations, i.e. (1) The Admin. V. C.B.I.C. New Delhi, (2) The Directorate General of Vigilance, New Delhi, (3) The Commissioner of Customs (Preventive), Kolkata and (4) U.P.S.C. That, 08.11.2018 was fixed for submission of documents to Ad. V. C.B.I.C. and one officer of Vigilance Section, C.G.S.T. & C.E., Kolkata North, Commissionerate was sent to New Delhi for the purpose of submission of the same. Thereafter, the case records of disciplinary proceedings was submitted to Ad. V by the departmental

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officers on 24.04.2019. However, the Ad. V, C.B.I.C. asked for few more documents.

Furthermore, the process of collection of documents as sought for by Ad. V. is being actively pursued by this office and the matter is in progress.

That, Disciplinary Proceedings against the applicant have already been initiated. The Inquiry Officer and Presenting Officer have already been appointed but it will take some more time to complete the entire proceedings.

That, the Disciplinary Authority, after considering all the case records, may decide to disagree with the finding of IO and impose penalty; in such a case, the case records will have to be sent to UPSC for their advice and that, UPSC generally takes 6 months time period to render their advice.

5. Heard both Ld. Counsel, examined documents on record.

6. In their prayer for condonation of delay, the Respondents have stated that the order of the Tribunal dated 11.01.2019 was received on 18.01.2019, and, although, the department tried to complete the proceedings, on account of non-response from certain authorities, the departmental proceedings could not be completed within the time fixed and, hence, as there was a delay of fourteen days in filing the M.A. on 02.05.2019 beyond the expiry date accorded by the Tribunal in M.A. 332/2018, i.e. 18.04.2019, the Respondents have prayed for condonation of delay in seeking extension of time to complete the proceedings.

7. Ld. Counsel for the applicant would vociferously object to any further extension of time stating that the applicant had superannuated in 2013, and, despite two rounds of extension of time accorded by the Tribunal to complete the

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proceedings, inordinate delay and tardy attitude of the Respondents is causing intense suffering to the applicant concerned.

8. We have carefully considered the rival contentions and have perused the explanations offered by the Respondents in seeking further time to complete the disciplinary proceedings. It is understood that the authorities at CBIC, Director General of Vigilance, Commissioner of Customs and UPSC have all been approached but, on account of complicated process of exchange of documents as well as various steps involved in the disciplinary proceedings, the Primary Respondent, viz. Office of Commissioner of Central Excise and Service Tax, is constrained from completing the proceedings within the time granted by the Tribunal.

Accordingly, in the interest of justice, we order that the Respondent No.3 will take all possible action to obtain response from the other authorities involved and mandatorily complete the disciplinary proceedings within a further period of four months from the date of receipt of a copy of this order.

It is also stated herein that, in case the proceedings are not completed within four months from the date of receipt of a copy of this order, the same would abate and the Respondents would not be granted any further extension to complete the proceedings.

9. With these directions, M.A. Nos. 355 and 356 of 2019 are disposed of.

(Dr. Nandita Chatterjee)
Member (A)

(Bidisha Banerjee)
Member (J)