

19

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 239 of 2003

New Delhi, this the 25th day of November, 2003

HON'BLE MR. V.K. MAJOTRA, ~~VICE CHAIRMAN~~ (A)
HON'BLE MR. KULDIP SINGH, MEMBER (JUDL)

Bani Singh
S/o Late Shri Ram Lal,
Dy. Commissioner of Income Tax,
D-208 Anand Vihar,
Delhi 110 092.

Applicant

(B) Advocate: Shri V.S.R. Krishna)

Versus

1. Union of India through
Secretary to the Government of
India,
Ministry of Finance,
Department of Revenue,
North Block,
New Delhi.

2. The Chairman,
Central Board of Direct Taxes,
Ministry of Finance,
North Block,
New Delhi.

3. The Director General of Income Tax
(Vigilance),
Dayal Singh Library, Rouse Avenue,
New Delhi.

Respondents,

(B) Advocate: Shri V.P. Uppal)

ORDER (ORAL)

By Hon'ble Mr. Kuldip Singh, Member (Judl)

Applicant, Bani Singh has filed this OA challenging the order dated 2/3.12.2002 vide which the suspension of the applicant was revoked w.e.f. 6.2.2001. It is stated that the dates so chosen for revocation was arbitrary because the suspension order dated 15.10.1996 under Rule 10 sub-rule (2) of the CCS (CCA) Rules 1965 which provides for deemed suspension if the applicant remains in custody vide which the applicant was placed under suspension was quashed

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2. It is further submitted that the said order of deemed suspension was quashed by the Tribunal in OA 833/2000 which was confirmed by the Hon'ble High Court vide order dated 1.10.2002. Thus the suspension order dated 15.10.1996, therefore, ceased to exist ab initio and as such there was no question of its revocation by even a subsequent date an administrative authority. If at all any revocation order was to be passed it ought to have been made effective from 16.9.1996 the date on which applicant was bailed out on the Tribunal's order dated 6.2.2001.

3. It is also pleaded that the quashing of the order of suspension entailed automatic revocation.

4. The facts in brief are that the applicant who is an officer of the Income Tax Department was posted as Deputy Commissioner of Income Tax. On 29.8.1996 the CBI registered a case against the applicant for allegedly holding assets disproportionate to his income and the applicant was arrested. The applicant was bailed out on 16.9.1996. The respondents placed the applicant under deemed suspension under Rule 10(2) of the CCS (CCA) Rules, 1965 vide order dated 15.10.1996 which was challenged by the applicant by filing an OA. After the OA was decided in favour of the applicant impugned order of 2/3.12.2002 was passed. The respondents revoked the order of suspension of the applicant from the date of the order was passed by the Tribunal on 6.2.2001 subject to SLP which may be filed before the Hon'ble Supreme Court of India so it is prayed that the date of the order dated 6.2.2001 has been arbitrarily taken by the department and the applicant is entitled to be reinstated w.e.f.

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16.9.1996 the moment he was bailed out so it is prayed that the order dated 2/3.12.2002 be quashed to a limited extent that the same be applicable w.e.f. 16.9.96 and not w.e.f. 6/2/2001.

5. The OA is being contested by the respondents. The respondents in their reply pleaded that they had passed the impugned order of revocation strictly in accordance with the directions given by this Tribunal. However, it is submitted that the applicant has been suspended w.e.f. 17.1.2003 in terms of the orders of the Hon'ble High Court which granted liberty to the High Court to pass fresh orders.

6. It is further stated that the CP filed by the applicant was dismissed by the Tribunal. It is also submitted that the order of the Tribunal was passed on the order of the Hon'ble High Court in Ravi Kumar's case and the said order has been stayed by the Hon'ble Supreme Court in a Civil Writ Petition.

7. We have heard the learned counsel for the parties and gone through the records of the case.

8. The only question involved in this case is whether the applicant should be reinstated w.e.f. 16.9.96 when he was bailed out or from 6.2.2001 when the order was passed by this Tribunal.

9. In this regard it will not be out of place to quote the directions given by this Tribunal in OA 833/2000:

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" We quash and set aside the orders dated 15.10.1996 to 6.8.1999. Annexure A-1 and A-2 respectively and direct the respondents to reinstate the applicant with immediate effect by posting him in a proper position. However, the respondents shall have the liberty to decide about the period of suspension of the applicant separately within three months, after the conclusion of the criminal proceedings pending against him. The OA is accordingly disposed of."

10. So in the light of these directions and the observations made by the Tribunal it is to be seen whether the impugned order has been passed in line with the order of this Tribunal or not.

11. Shri Krishna appearing for the applicant submitted that the order of revocation has been passed in accordance with the rules and the rules do not envisage that upto a particular period the suspension is legal and beyond that it is illegal. So if suspension order has been quashed that means that the order has been quashed being void ab initio itself so the revocation should have been with effect from the date when the applicant was bailed out from the criminal court.

12. On the contrary Shri Uppal appearing for the respondents submitted that though the order revoking the suspension has been passed on the basis of the judgment given by the Delhi High Court but the said judgment has been revoked by the Hon'ble Supreme Court and even in the case of the applicant the department had been given liberty to pass a fresh order in accordance with law laid down by the Hon'ble High Court. Thus the quashing of the order of suspension by the Tribunal had only a technical effect and the department had revoked the suspension of the applicant with effect from the date of order passed by the Tribunal which is in accordance with the directions given by this Tribunal.

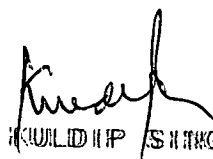
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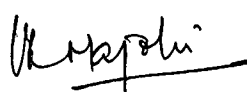
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13. Besides this Shri Uppal also emphasised that the Tribunal while quashing the order had also given liberty to the department to decide about the period of suspension separately within 3 months after the conclusion of the criminal proceedings pending against him. Thus the department has to take decision about the period only after the conclusion of the criminal proceedings against the applicant so department had passed the order of revocation in deference of the order passed by this Tribunal and since the department has been given liberty to decide about the period after the conclusion of the criminal proceedings so the department can decide even at a later stage about the suspension if the criminal trial case is in favour of the applicant.

14. Having regard to these contentions raised by the respective parties we find that the quashing of the suspension order was merely a technical order and since now the department has again put the applicant under suspension so the date of reinstatement is only a academic question more so when the department has to make a second exercise to decide about the suspension period after the conclusion of the criminal trial. so we find that at this stage no interference is called for and the OA has to be dismissed.

15. In view of the above, OA has no merits and the same is dismissed. No costs.


(KULDEEP SINGH)
MEMBER (JUDICIAL)


(W. K. MAJITHRA)
VICE CHAIRMAN (A)