

(2020) 01 CAT CK 0027

In the Central Administrative Tribunal

Case No : Original Application No. 3561 Of 2019

Capt. Pramod Kumar Bajaj

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 13-01-2020

Acts Referred:

Citation : (2020) 01 CAT CK 0027

Hon'ble Judges : L. Narasimha Reddy, J; Aradhana Johri, Member (A)

Bench : Division Bench

Advocate : Hanu Bhasker, Aman Malik, Ravi Prakash

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J

1. The applicant joined the Indian Army as Second Lieutenant in the year 1980. Even while serving the Army, he appeared in the Civil Services Examination held in the year 1989. He qualified therein and was allocated to the 1990 batch of Indian Revenue Service (IRS) and appointed as Assistant Commissioner of Income Tax. Thereafter, he was promoted to the post of Commissioner in the year 2012, appointed as Joint Secretary to Government of India in the year 2015 and was posted as Commissioner (Exemptions) at Lucknow.

2. In the year 2016, the applicant applied for the post of Member, Income Tax Appellate Tribunal (ITAT) and he is said to have been selected. Since he was not issued order of appointment, he filed O.A. No.95/2016 before the Lucknow Bench of the Tribunal. That was allowed and directions as regards vigilance clearance, were given. The order passed therein became final with the disposal of W.P. (SERB) No.8648/2017 by the Lucknow Bench of the Hon"ble Allahabad High Court and S.L.P. (Civil) No.22596/2017 by the Hon"ble Supreme Court.

3. It is stated that instead complying with the directions issued in the above judicial proceedings, an inspection was conducted in the office of applicant in

November, 2017 and a memo was issued to him on 30.01.2018. The applicant was also transferred to another position and he had to file an O.A. in that behalf.

4. It is stated that the Ministry of Law & Justice addressed letter dated 22.02.2018 to the Income Tax Department to furnish the fresh vigilance clearance and in response to that, clearance was given on 11.04.2018. The grievance of the applicant is that within a week thereafter, the respondents forwarded another letter dated 20.04.2018 seeking copies objectionable material against the applicant.

This O.A. is filed with a prayer to quash the letter dated 20.04.2018 denying vigilance clearance to the applicant and to direct the respondents to process the appointment of the applicant on the basis of vigilance clearance given on 11.04.2018. Certain other limbs of prayer in relation to the same relief are also made.

5. The applicant contends that once the vigilance clearance was given on 11.04.2018, that too, in the light of the directions issued by the Tribunal and a request made by the Ministry of Law & Justice, there was no basis for the respondents in modifying the vigilance clearance vide letter dated 20.04.2018. The applicant has narrated the various developments in relation to his service at Lucknow and the selection to the post of Member, ITAT, in detail.

6. The respondents filed counter affidavit opposing the O.A. It is stated that the applicant had initiated various proceedings at different stages and he made every effort to remain in the office at Lucknow. According to them, the vigilance clearance would depend upon the developments that take place from time to time and though a letter dated 11.04.2018 was forwarded, another letter dated 20.04.2018, incorporating the developments that have taken place, was forwarded.

7. We heard the applicant, who argued the case in person, Mr. Hanu Bhasker and Mr. Aman Malik for Mr. Ravi Prakash, learned counsel for respondents, in detail.

8. This O.A. was, in fact, filed before the Lucknow Bench of the Tribunal and thereafter, it was transferred to this Bench since the Judicial Member at Lucknow Bench recused from hearing it.

9. The applicant, who had a bright career in Army and thereafter in the Income Tax Department for a considerable time, had to face hurdle, while functioning at Lucknow. He was selected as Member, ITAT and issuance of the order of appointment did not fructify on account of some issue relating to vigilance. It has already been mentioned that the applicant filed O.A. and direction was issued therein, in the context of forwarding vigilance clearance. The order in the O.A. gave rise to the addressing a letter dated 22.02.2018 by the Ministry of Law & Justice, Government of India. It reads:

"Subject: Vigilance Clearance of Shri P.K. Bajaj, IRS (IT:90031) reg.

I am directed to refer to Central Board of Direct Taxes Directorate of Income Tax Letter No. HRD/CM/152/96 /2013-14/1592 dated 6th September 2013 (copy enclosed), forwarding therewith application Shri P.K. Bajaj IRS (IT:90031) for the post of Accountant of Member in Income Tax Appellate Tribunal. It is requested that fresh vigilance clearance in respect of Shri P.K. Bajaj IRS (IT:90031) may kindly be furnish to this Department latest by 27th February, 2018."

10. In response to this, the concerned authority initially forwarded a letter dated 11.04.2018. The information on as many as 13 aspects was furnished in a proforma. Against the columns 11 & 12, which pertain to pendency of disciplinary / criminal proceeding or charge sheet pending; and action contemplated against the officer as on date, it was mentioned as "NO". One week thereafter, the Office of Commissioner of Income Tax (Exemptions), Lucknow, where the applicant was working, addressed a letter dated 19.04.2018 to the Additional Director General of Income Tax (Vigilance), New Delhi. It reads as under:-

"Subject: Your Letter F.No.Addl.DIT/Vig./NZ-III/ VCRA-05/18/2017-18/2583 dated 30.01.2018 and 05.04.2018

Sir,

In this regard, I am directed to request you to kindly provide the copies of the complaints of following persons [along with copies of satisfaction note and reasons recorded for authorization of inspection by the PDGIT(V)] on the basis of which inspection was carried out on 29th and 30th November, 2017 as informed by the officials of the inspection team:

1. Shri Ashish Rastogi,
2. Shri Ashok Verma
3. Shri Sameer Yadav
4. Shri D.V. Kapil (Father-in-law of Mrs. Naina Soin Kapil, Addl. CIT, New Delhi)
5. Letter dated 15.03.2016 of Shri Anand Kishore, Retired CCIT (Exemption) along with copy of Hon"ble ITAT order(s), wherein allegedly concern was raised by the Hon"ble ITAT Bench, Lucknow in respect of quality of order passed by the CIT (Exemption), Lucknow.

3. In this regard, I am further directed to submit that it may also be informed if names/addresses of complainants mentioned at Serial No.1 and 2 was got verified by the Directorate and if so, the copies of the relevant documents may also be provided."

11. It appears that this was forwarded through letter dated 20. 04.2018 to the Ministry of Law & Justice. The information contained in the letter extracted above, naturally was not favourable to the applicant, and accordingly, he felt aggrieved.

12. The prayer made in this O.A. is to direct the respondents to stick to their vigilance clearance, as contained in the order dated 11.04.2018. It hardly needs any mention that there is nothing like a finality, in the context of vigilance in the career of an employee. It is a continuous phenomenon and even if the officer was honest throughout, once he comes under lens, an adverse consequence thereof cannot be stalled. It is a different matter that the point of time at which the negative aspect came into existence, would have its own relevance for different purposes, such as promotion. Once the Department, in which an employee is working, is requested to furnish the vigilance clearance, an obligation rests with them to keep the requesting agency or Department informed about the latest developments, if any. Failure to do so would, in fact, would be a serious lapse.

13. The applicant is not able to cite any provision of law as to how and why the subsequent developments, which have a vigilance angle, must be ignored. Once the information is furnished, it is for the authority to analyze the same and decide its relevance. We are not convinced that the respondents have committed any illegality in forwarding the vigilance information pertaining to the applicant, through letter dated 20.04.2018.

14. We do not find any merit in this O.A. It is accordingly dismissed.

There shall be no order as to costs.