(2003) 03 DEL CK 0109

In the Delhi High Court

Case No : Civil Writ Petition No. 2480 of 2001 21 March 2003

Narinder Khanna APPELLANT

Vs

Union of India RESPONDENT

Date of Decision : 21-03-2003

Acts Referred:

Citation : (2003) 130 TAXMAN 199

Hon'ble Judges : B.C. Patel, C.J;Badar Durrez Ahmed, J

Bench : Full Bench

Advocate : S.K. Mittal, Salil Paul, R. Narayanan, R.D. Jally and Ajay Jha, for the Revenu, for the Appellant;

Judgement

B.C. Patel, C.J.

Petitioner, party in person has filed this petition against 14 respondents and after amendment the number has increased to 19. It is prayed by him that appropriate writ of mandamus be issued to Central Board of Direct Taxes and Commissioner to collect Income Tax in respect of taxable perquisites like road tax, free tyre tube, batteries, insurance premium, interest free car loan of Rs. 4 lakhs, fixed conveyance allowance of Rs. 2,000 per month as well as reimbursement of 125. Its of petrol per month from 5,000 class-I officers, 29,000 class II officers and 40,000 class III employees of government owned insurance companies for the block period of 10 years prior to search u/s 132 of the Income Tax Act conducted on 29-11-2000.

2. Some raids might have been conducted by the Income Tax Department and it might have found out that benefits have been taken in contravention of the provisions of the Income Tax Act. However, petitioner has not pointed out as to how he is entitled for issuance of writ of mandamus against recovery from 5,000 class I officers 29,000 class II officers and 40,000 class III employees of government owned insurance companies. If the Central Board of Direct Taxes or the Commissioner has taken action in accordance with law, then it is for them to

make recovery in accordance with law. It is otherwise also a very vague petition. Therefore, it is not possible to entertain this matter pertaining to the Income Tax Act which is a self contained code and provides the machinery for dealing with such situations.

3. The petitioner has prayed for issuance of writ of mandamus to IRDA to specify percentage of Life Insurance Business and General Insurance Business in the rural section as specified in section 132 B of IRDA Act, 1999. This is a policy matter. This court cannot intervene in the absence of any breach committed by the persons concerned.

4. The petitioner has prayed for issuance of writ of mandamus to IRDA, CAG, Director Vigilance, Ministry of Finance, C.V.C. and Financial Advisors of the government owned Insurance Companies to fix responsibility and initiate appropriate recovery and disciplinary proceedings in case of theft of stamp duty as allegedly proved u/s 105C of the IRD Act, 1999, in case of temporary embezzlement of Rs. 8 crores of Companies Fund and recovery of auditor''s fees from the salaries of in charges who were all responsible for such malpractices. Petitioner has not pointed out any case of theft of stamp duty. From the submission it appears that he is trying to canvass that stamps of proper fees were not affixed and thereby government has suffered. Under the Stamps Act, there are officers duly appointed to initiate action in accordance with law. On such general statement or a general prayer, court cannot take cognizance. The other allegation in this regard also are too vague and general to warrant any interference by us.

Petitioner has also prayed for writ of mandamus to Financial Advisers of the insurance companies and C.V.C. for recovery of illegal payment of transfer grant of Rs. 15,000 paid to Sh. K.K. Khanna and others who had not shifted their residence from Delhi and Meerut to Ghaziabad on their transfer to Ghaziabad. This cause of action arises within the territorial limits in Ghaziabad. That apart there is no report placed on record alleged to have been made by C.V.C. In absence of C.V.C. report, the court cannot examine this aspect.

5. Petitioner has further prayed issuance of writ of mandamus to Financial Advisers of government owned insurance companies for recovery of illegal payment of conveyance allowance of Rs. 2,000 per month including the salary of in charges of Bo/Do and Managers and above for the last 10 years. Not a single instance is pointed out in this behalf. This is a vague statement. How many officers were given benefit and what is the illegality is not pointed out.

Petitioner has also approached for issuance of writ of mandamus to Income Tax authorities to reward the petitioner for recovery of concealed taxable perks in accordance with law and specific direction to Oriental Insurance Company to enter outstanding entries in the confidential reports of the petitioner and grant out of turn promotion or suitable posting as in charge of Divisional Office, treating him on duty while contesting court cases release of illegally withheld local conveyance, expenses of Rs. 6,000 and tour bill of Rs. 8,200.

6. Petitioner has clubbed different authorities connected with different departments in a same petition. He has also clubbed together disparate purported causes of action. Petitioner is serving in the insurance company. It is his claim that he informed the Income Tax Department and Therefore the Income Tax Department should make a reward to him. It is for the Income Tax Department to consider that prayer and not for this court to examine that matter. So far as writing the confidential reports are concerned it is surprising how the petitioner can state that this court should direct the company to make entries in his confidential reports as if he is the best officer amongst all. It is for his superiors to judge and to make entries in the confidential reports. If the entries are contrary to law the rules make provision for approaching the higher authorities. Similarly, as regards his claim for expenses and tour bill, it is not for this court to entertain such a grievance. If he has rightly claimed then the amount has to be paid but there may be some defects in his claim or the same might not have been in accordance with law if it is withheld. This court cannot grant him this relief.

7. The petitioner has also prayed that the orders of posting of Branch Managers and Divisional Managers be cancelled which are in contravention of Selection Policy and panel prepared by the Selection Committee. The court cannot examine the prayer. Not only that what is the policy is not explained and ultimately decision is to be taken by a panel and how an illegality has been committed is required to be pointed out to the court. The same has not been done.

8. He has also prayed that the re-imbursement of 125. its of petrol per month be declared as ultra vires and illegal and also prayed for quashing the conveyance allowance of Rs. 2,000 per month which is neither covered under the scheme of the government owned insurance companies. It is pertinent to note that this prayer and many of the other prayers have been included in the petitioner''s CWP 3811/2000. The said civil writ petition 3811/2000 has been considered by a Division Bench of this court and rejected on 18-1-2002.

9. If the petitioner has a case then he has to point out specifically by naming the persons in his petition. He has to annexe relevant rules and regulations with the petition but without pointing it out, general petitions are not to be entertained. We have perused the replies filed by the respondents. The court is of the opinion that it would not be possible to take action in such matters where the petition is clubbed with multifarious prayers concerning different departments and authorities.

10. Mr. Mittal, learned counsel advocate appearing for respondent No. 1 submitted that in the instant case wild allegations have been make against a practicing lawyer without verifying the records of the case. This court is not examining the correctness or otherwise of these allegations and the court is permitting the learned counsel to take appropriate action in this regard, if he so

pleases.

11. We find no substance in the petition. In view of this, we dismiss the same.