

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
AT HYDERABAD.**



**M.A.NO.386/2014 IN O.A.NO. 020/00557/2014
DATE OF ORDER:12-06-2014**

BETWEEN:

1. G. Maruti Prasad
2. Satya Priya Raghunandan
3. Raja Sekhar Gottimukkala
4. K. Seshu Kumar
5. R. Balaji
6. T. Eswara Bangar Reddy
7. A. Govindu
8. Kamadevi Bellamkonda
9. K. Venugopal
10. K. Lavanya
11. Kiran Kumar
12. G.V.A. Sekhar
13. M. Raghuram Babu

....Applicants

AND

1. Director of Income Tax, HRD, Central Board of Direct Taxes, Government of India, Ministry of Finance, Directorate of Income Tax (Human Resource Development), CADR Building, Plot NO.6, Vasant Kunj Institutional Area Phase II, New Delhi.
2. Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, New Delhi. Rep by its Joint Secretary to Government of India.
3. Chairman, Central Board of Direct Taxes, Government of India, Ministry of Finance, north Block, New Delhi.
4. Chief Commissioner of Income Tax, Cadre Controlling Authority, (CCA) Andhra Pradesh, Hyderabad.

...Respondents

COUNSEL FOR THE APPLICANT: DR. K. LAKSHMINARAYAN
COUNSEL FOR THE RESPONDENTS: MR. G. JAYA PRAKASH BABU, SR. CGSC

CORAM:

THE HON'BLE MR. B. VENKATESWARA RAO, MEMBER (JUDL)
THE HON'BLE MRS MINNIE MATHEW, MEMBER (ADMIN)

THE HON'BLE TRIBUNAL MADE THE FOLLOWING ORDER:-

The applicants have filed this MA with a prayer to suspend the impugned memo F.No.CCAP/2(9)(a)/Estt/2014-15 dated 9.6.2014 issued by Respondent No.4 except the promotions granted to Applicants 1 to 3 and pass such other order as are deemed fit and proper.

2. The Counsel for the applicant submitted that the applicants have filed OA 557/2014 challenging the action of the Respondent No.4 in trying to conduct Departmental Promotion Committee on 4.6.2014 and make promotions to the post of Income Tax Inspectors in contravention of the order dated 31.5.2013. The OA was listed for admission on 2.6.2014 and at that time the official Respondents took time for getting instructions. The matter was adjourned to 5.6.2014. On that day also the official respondents took adjournment to 6.6.2014. On 6.6.2014 again at the request of official Respondents the matter was adjourned to 9.6.2014 as the DPC could not be conducted on 5.6.2014 and was postponed to 9.6.2014. He further argued that the entire claim of these applicants is that the Government had issued memo on 31.5.2013 creating various additional posts including that of Executive Assistants, Income Tax Inspectors and further directed that the promotions to these posts be effected forthwith. He further submitted that the Respondent No.4, being subordinate to Respondent No.2 is bound by the order given by the Respondent No.2 and again acted beyond that order dated 31.5.2013. He further submitted that inspite of this settled position of law, Respondent No.4 ignored the said order dated 31.5.2013 and going ahead with making with promotions to various categories other than Executive Assistants which is completely illegal, arbitrary and contrary to law. The applicants filed a separate MA No.379/2014 seeking a direction from this Tribunal to Respondent No.4 to strictly follow the order

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dated 31.5.2013. The MA was listed on 9.6.2014. At that time the Departmental representative was present in the Court Hall as well as Sri G.Jayaprakash Babu, learned Senior Central Government Standing Counsel for the Respondents. After hearing both sides, this Tribunal was pleased to pass the directions directing Respondent No.4 to strictly follow order dated 31.5.2013 in making promotions to the posts of Executive Assistants and Income Tax Inspectors. Immediately these applicants have made representation on 9.6.2014 bringing to the notice of Respondent No.4 ~~about~~ the interim order of this Tribunal and requested the 4th Respondent to effect promotions accordingly. The learned counsel appearing for the applicant further submitted that Respondent No.4 in utter disregard to this Tribunal's order deliberately passed promotion orders vide order dated 9.6.2014 inspite of being informed about the orders of this Tribunal. The learned counsel for the applicant submitted that in the said promotion orders the applicants 1 to 3 in the present MA were also promoted. He further argued that from the beginning itself 4th Respondent started taking time after time and when this Tribunal has passed the orders, contrary to the orders, he has effected the promotions which are seeking to be stayed in this MA. He further contends that the 4th Respondent had taken the posts of Sr. Tax Assistants, Office Superintendent, Stenographer Gr.I and DEO as the basis for effecting promotions to the posts of Income Tax Inspectors. These posts were abolished by the Government vide its order dated 31.5.2013 and he has further prayed to grant the interim relief as prayed in the OA.

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3. Sri G.Jayaprakash Babu, learned Senior Central Government Standing Counsel appearing for the Respondents opposed the submissions and contentions of the learned counsel for the applicant and he filed written instructions dated 10.6.2014 which he received from the office of the Chief Commissioner of Income Tax, Hyderabad-1, Legal Section. We have carefully gone through the written instructions submitted by the Counsel. There is no dispute with regard to the interim direction in MA No.379/2014 dated 9.6.2014, which reads as under :-

"Heard counsel on both sides. Sri G.Jayaprakash Babu, learned Senior Central Government Standing Counsel for Respondents submits that he has not received any instructions from the department with regard to interim direction. Having considered the submissions of the learned counsel for the Respondents, we direct the Respondents to follow the instructions in F.No.A-11013/1/2013-Ad.VII, dated 31.5.2013 (page-36: Annexure-VII to OA) while considering the cases of the applicants for promotions to the post of Executive Assistant and Income-tax Inspectors in the DPC to be held today or any other subsequent date".

It is also admitted fact that we passed the order dated 9.6.2014 in the presence of the learned Senior Central Government Standing Counsel and the Departmental representative. Sri G.Jayaprakash Babu, learned Senior Central Government Standing Counsel submitted on that day that he has not received any instructions from the Department with regard to interim direction. The above interim direction is very clear that the direction to the concerned authorities to follow the instructions in file No.

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CAP/2(9)(a)/Estt/2014-15, dated 9.6.2014 (Page-36 : Annexure A-VII to OA) while considering the cases of the applicants for the post of Executive Assistants and Income-tax Inspectors in the DPC to be held on 9.6.2014 or any other subsequent date. Contrary to the interim direction dated 9.6.2014 the office of Chief Commissioner of Income-tax (CCA, Hyderabad), has issued memorandum dated 9.6.2014 effecting the promotions without following the instructions dated 31.5.2013. Having seen the memorandum dated 9.6.2014, we are surprised that how the departmental officials deliberately effected the promotions contrary to the Tribunal's interim direction dated 9.6.2014. Even if the DPC which was constituted for this purpose had approved the cases of the persons mentioned in the memorandum dated 9.6.2014 certainly it takes some time to issue promotion orders by the concerned authorities, but in the present case the interim direction was granted on 9.6.2014 and DPC also approved the promotions to the cadre of Income-tax Inspectors in regular basis on 9.6.2014 itself and without taking any time, immediately i.e. on 9.6.2014 itself the Respondents office issued the memorandum dated 9.6.2014 which clearly shows that the officials knowing fully about the interim directions of this Tribunal dated 9.6.2014 had taken steps and got issued the memorandum dated 9.6.2014, contrary to the interim direction dated 9.6.2014 of this Tribunal.

— After going through all the above, the order dtd 9/6/14 of Fno. _____ is herewith suspended.

