IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2015

CORAM

THE HON'BLE MR. JUSTICE V.RAMASUBRAMANIAN
and
THE HON'BLE MR. JUSTICE T.MATHIVANAN

W.P. No.15748 of 2015
and
M.P.No.1 of 2015

1. Union of India rep. by its
   Secretary to Government of India,
   Ministry of Finance,
   Department of Revenue,
   North Block, New Delhi.

2. The Chairperson,
   Central Board of Direct Taxes,
   North Block, New Delhi. ... Petitioners

Vs.

1. The Central Administrative Tribunal
   rep. by its Registrar,
   High Court Buildings,
   City Civil Court Campus,
   Chennai.

2. Debendra N.Kar (D.N.Kar) ... Respondents

Petition filed under Article 226 of The Constitution of India to issue a writ of certiorari to call for the records of the first respondent in its proceedings in O.A.No.310/01635/2014 dated 23.04.2015 and quash the same.

For Petitioners : Mr.V.Vijay Shankar

For Respondents : Mr.L.Chandrakumar for R2
R1 - Tribunal

ORDER

(Order of the Court was made by V.RAMASUBRAMANIAN, J.)

This writ petition is by the Union of India, challenging an order of the Central Administrative Tribunal, setting aside an order of the transfer of the second respondent.

2.Heard Mr.V.Vijay Shankar, learned standing counsel for the Department of Income Tax and Mr.L.Chandrakumar, learned counsel appearing for the second respondent.

3.When the second respondent was working as the Commissioner of Income Tax (Exemption) in the city of Chennai by an order bearing No.196/14 dated 03.11.2014, the Ministry effected the transfer of about 20 officers including the second respondent herein.

4.Challenging the order of transfer, the second respondent filed an application in O.A. No. 310/01635/2014 on the file of the Central Administrative Tribunal, Madras Bench. The said application has been allowed by the Tribunal by an order dated 23.04.2015, forcing the Union of India to come up with the above writ petition.

5.The order of transfer dated 03.11.2014 is a general order of transfers and postings of about 20 officers. The second respondent was one among them. As a matter of fact, he was transferred by the said order from the Exemptions Section to the Income Tax Appellate Tribunal - 3 within the city of Chennai. The order did not disclose any reason except administrative reasons and the transfer could not have affected the second respondent in any manner as it was from one section to another within the city.

6.But unfortunately, in their enthusiasm to overkill, the petitioners filed a reply statement before the Tribunal stating that there were complaints. Taking advantage of the said statement, the second respondent contended that the order of transfer was penal in nature. The Tribunal also held that there was no jurisdiction on the part of the officer who passed the order of transfer.

7.In our considered view, the finding recorded by the Tribunal that the impugned order of transfer was penal in nature, is wholly unsustainable. The order of transfer was a general order covering 20 officers. It did not disclose any reason. Merely because the Department mentioned in the reply statement that there were complaints, the Tribunal could not have recorded a finding that the second respondent was penalised without an enquiry.

8.We do not even know how the second respondent could be taken to be aggrieved, when the transfer was within the city of Chennai. Therefore, the order of the Tribunal setting aside the transfer order, is completely contrary to the law laid down by this Court and the Apex Court.

9.However, it is now stated by Mr.V.Vijay Shankar, learned standing counsel for the second respondent that the second respondent now stands transferred to Patna, by an order dated 15.06.2015. Therefore, recording the said fact, this writ petition is closed as nothing survives. But the Tribunal shall take note of the above observation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

The Registrar,
Central Administrative Tribunal,
High Court Buildings,
City Civil Court Campus,
Chennai.

+1cc to Mr.L.Chandra Kumar, Advocate, S.R.No.32338
+1cc to Mr.V.Vijaya Shankar, Advocate, S.R.No.32505

W.P.No.15748 of 2015

RV(CO)
CA(08/07/2015)