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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Judgment Dated: 19th July, 2016**

+ W.P.(C) 392/2015 and C.M.No.645/2015
CHAIRMAN, CENTRAL BOARD OF DIRECT TAXES, & ANR.

..... Petitioners

Through: Ms. Madhurima Tatia, Advocate.

versus

SHIVA NANDAN PRASAD & ANR. Respondents

Through: Mr.S.K.Gupta, Advocate for R-1.

Mr.Ajay Kalra for Mr.Sanjeev Narula,
CGSC for UOI/R-2.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE I.S.MEHTA

G.S.SISTANI, J (ORAL)

1. Challenge in this writ petition is to the order dated 11th March, 2014 passed by the Central Administrative Tribunal in M.A.No.2655/2012 in a disposed of O.A.No.2888/2010. The petitioners are aggrieved by paragraph-5 of this order, which is reproduced below, by which directions were issued to the respondents (petitioners herein) to ensure that all consequential benefits arising out of the order dated 18th November, 2013 [order under Rule 9 of the CCS (Pension) Rules, 1972] be extended to the applicant (respondent No.1 herein) at the earliest but in any case within a period of one month.

“5. In view of the above position, we are of the considered view that the respondents have substantially complied with the aforesaid order of this Tribunal dated 28.6.2011. But the Applicant is also entitled for the consequential benefits. Therefore, the objections raised by the learned counsel for the respondents are irrelevant. Accordingly, the respondents are directed to ensure that all the consequential benefits arising out of their aforesaid order dated 18.11.2013 shall be extended to the applicant at the earliest but in any case within a

period of one month from the date of receipt of a certified copy of this Order.”

2. Learned counsel for the petitioners submits that the learned Tribunal has exceeded its jurisdiction while entertaining an M.A. after the disposal of the O.A. on 26th August, 2011. Learned counsel for the petitioners further submits that the learned Tribunal did not take into account the fact that after the charge sheet issued against the respondent No.1, subject matter of O.A.No.2888/2010, having been quashed on technical grounds; further two charge sheets have been issued against the respondent No.1, which the petitioners claim are in continuation of the first charge sheet. It is contended that the first charge sheet was quashed only on the ground that the first charge sheet was issued against the respondent No.1 without getting approval of the competent Disciplinary Authority, namely, the Finance Minister.

3. This legal position, learned counsel for the petitioners submits, stands confirmed by the Supreme Court in the case of ***Union of India vs. B.V.Gopinath (2014) 1 SCC 351.***

4. The learned counsel for the respondents submits that there is no infirmity in the impugned order passed by the learned Tribunal inasmuch as once the charge sheet had been quashed, the sealed cover had to be opened and the legal consequences were bound to be followed. He further submits that as on the date of the passing of the order dated 11th March, 2014, there was no charge sheet in existence and hence the consequential benefits should have been awarded to the respondent No.1.

5. At this stage, we are also informed that a separate O.A. has been filed by respondent No.1 before the Tribunal being O.A.No.4471/2015 wherein a prayer has been made for release of pensionary benefits.

6. We dispose of this writ petition with a clarification to paragraph-5 of the order dated 11th March, 2014. We clarify that the department would release all consequential benefits to the respondent No.1 in accordance with law and should the respondent have any legal objections they would pass a speaking order within a period of four weeks from the date of receipt of this order to enable the respondents to take recourse to the legal remedies as available to them in law. We make it clear that we have not expressed any opinion on the merits of the case as to whether the respondent is liable to receive the consequential benefits or the petitioners are empowered to withhold the same.



**G.S.SISTANI
(JUDGE)**

**I.S.MEHTA
(JUDGE)**

JULY 19, 2016
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