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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 1286/2017 & CM Nos.5913-14/2017**

Date of Decision : 15th February, 2017

MALLIKARJUNA RAO ANUMALA Petitioner

Through: Kumar Rajesh Singh, Advocate

versus

UNION OF INDIA & ORS. Respondents

Through: Ms. Bharathi Raju, CGSC

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

SANJIV KHANNA, J. (ORAL):

We are not inclined to interfere with the impugned order dated 2.12.2016 passed by the Principal Bench of the Central Administrative Tribunal ('Tribunal' for short).

2. The petitioner, an officer of the Indian Revenue Services, has been convicted for offences under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988 ('PC Act') vide judgment dated 2.9.2015 passed by the Principal Special Judge, CBI, Hyderabad. The petitioner has been sentenced to undergo rigorous imprisonment for 5 years and also pay fine of Rs.6,00,000/-, and in default, to undergo simple imprisonment for 6 months.

3. The petitioner had preferred an appeal before the High Court of Judicature at Hyderabad, and on an application being filed, the sentence of

imprisonment has been suspended, subject to furnishing a personal bond in the sum of Rs.50,000/-, with two sureties of the like amount. The operation of the judgment of conviction has not been stayed.

4. Pursuant to the aforesaid conviction, the respondent, CBDT has issued a Memorandum dated 4.1.2016 proposing penalty of removal/dismissal from service under Rule 19(i) of the Central Civil Services (CCA) Rules, 1965 and giving the petitioner an opportunity to make representation against the proposed penalty within fifteen days.

5. The petitioner thereafter filed WP(C) No.10475/2016 for stay of further proceedings, pursuant to the Memorandum dated 4.1.2016. The writ petition was held to be not maintainable since the petitioner was an employee of the Central Government. The writ petition was disposed of, with liberty to approach the Tribunal.

6. The petitioner thereafter filed OA No.3992/2016, which was disposed of vide the impugned order dated 2.12.2016, wherein, taking a compassionate view, the applicant was granted two weeks' time to file a response to the OM dated 4.1.2016, as is clear from the following observations:-

“3. In response to the aforesaid communication, he made request on 27.09.2016 reiterating his stand for supply of

copies for which he has already approached the authorities under the RTI Act, 2005. He has, in the present OA challenged the aforesaid communication. We do not feel that it is a case where intervention of this Tribunal is required. However, at this stage, learned counsel for the applicant submits that at least the applicant may be allowed one opportunity to file his response.

4. Taking a compassionate view, we allow the applicant to file his representation/response to the OM dated 04.01.2016 within two weeks from today failing which, the authorities are at liberty to proceed in accordance with law. With these observations this OA stands disposed of.”

7. Learned counsel for the petitioner has drawn our attention to the letter dated 1.2.2016 written by the petitioner, which reads as under:

“I received the above referred memorandum dated 04.01.2016 asking me to submit reply/representation within 15 days. The aforesaid memorandum was received by me on 18.01.2016 at 5:30 P.M.

It is submitted that since the matter is highly complicated being complex legal issues are involved, I request for the following documents and personal inspection for submission of effective reply/representation.

1. The order sheet copies of entire file F.No.C-14011/1/2009-V&L.

2. *The correspondence in the file through various Government authorities.*
3. *Copies of all relevant documents/information including the entries/comments/letters of DIT (Vigilance), DGIT (Vigilance), Member (P&V), Chairman CBDT, Revenue Secretary MOS(R) and the Hon'ble Union Finance Minister.*
4. *All the relevant file copies of which are annexed to the F.No.C-14011/1/2009-V&L.*
5. *The undersigned may be allowed to inspect the file F.No.C-14011/1/2009-V&L at your convenient date, time and place.*
Hence, I may be allowed at least 1 month time after I get the above requested documents etc. to submit aforesaid representation as a matter of principles of natural justice. It is requested not to take any adverse view in the meanwhile."

8. The petitioner is apparently marking time, stalling and trying to delay the decision, pursuant to the Memorandum dated 4.1.2016. It has been more than a year, since the Memorandum dated 4.1.2016 was issued in view of the conviction of the petitioner under the PC Act. The scope and ambit of inquiry under the second proviso to Article 311(2) in case of conviction is very limited and restricted to issues and ground elucidated by the Constitution Bench of the Supreme Court in ***Union of India v. Tulsiram Patel, (1985) 3 SCC 398*** and ***Satyavir Singh & Ors. v. Union of India & Ors., (1985) 4 SCC 252***. In such cases, a departmental inquiry is not

required to be held.

9. In view of the aforesaid position, we are in agreement with the findings recorded by the Tribunal that there is no reason or ground to interfere and the OA was premature.

10. At this stage, learned counsel for the petitioner submits that further time may be granted for making a representation. We are not inclined to grant the said request, for time was granted, as noticed above, by the Tribunal by order dated 2.12.2016. It was for the petitioner to avail the said opportunity. If he has not availed it, necessary consequences would follow. The petitioner has stated that he has filed his reply. We, on the said aspect, make no comment.

11. With the aforesaid observations, the writ petition is dismissed. The pending applications are also dismissed. Observations made above are for disposal of this writ petition, and would not be construed as findings on merits. Authorities would independently examine the issue, without being influenced by the observations made above.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

FEBRUARY 15, 2017/tp