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

\+ **W.P.(C) 2207/2016**

R.D GUPTA ..... Petitioner

Through: Petitioner in person.

versus

UNION OF INDIA AND ANR ..... Respondents

Through: Mr. Rakesh Kumar, CGSC.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

O R D E R

% **10.12.2019**

1. On 10th October, 2019, the following order was passed by this Court:-

> "**W.P.(C) 2207/2016**
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> 6. The short question that arises for consideration in the present petition is whether the period during which the Petitioner was placed under suspension i.e. the period between May, 2004, the date on which the order suspending him was passed, and 8"' August, 2007, the date on which the order revoking the said suspension was passed, should be regularized on the ground that the purpose for which the Petitioner was placed under suspension was not carried to its logical end. In other words, the Petitioner, who appears in person, states that the reasons for his suspension as spelt out in the order dated 14th May, 2004 was the pendency of case "in respect of criminal offence" which was supposed to be "under investigation", whereas till the time of revocation of the suspension by the order dated 8th August, 2007 no charge-sheet was issued in relation to such criminal offence, which was stated to be under investigation.
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> 7. The Petitioner states that he superannuated on 30th

September, 2011 and that till that date he had not been served with any charge-sheet in respect of such 'criminal offence' which was under investigation. On the other hand, he was served with three other charge-sheets, one of which has been dropped. As far as the second charge-sheet is concerned, it pertained to a period when he was a member of a Purchase Committee and serving as Joint Commissioner under a Commissioner at Rohtak. In this connection, counsel for the Respondents has handed over to the Court the chronology of the events in the disciplinary proceedings stemming from the charge-sheet issued in that case. As of date, it appears that the said enquiry is still in progress.

8. As far as the third charge-sheet is concerned, the Petitioner in person states that it pertained to a time when he was a Commissioner of Income Tax (Appeals) at Ajmer and to a period, prior to the period of his suspension. The CVC clearance obtained for the said enquiry, resulted in his being served with the said charge-sheet after his retirement on 9th November, 2011 and it is stated to be still pending.

9. In response to pointed query by the Court whether any charge-sheet has been issued to the Petitioner in relation to the criminal case, which is referred to the suspension order dated 14th May, 2004, counsel for the Respondent states that he needs to seek instructions.

10. At his request, list on 31st October, 2019."

2. Today, when the matter was called out, learned counsel for the Respondents placed before the Court a letter dated 6th December, 2019 addressed by the Directorate General of Income Tax (Vigilance) addressed to the Under Secretary (V&L)-1, CBDT, North Block stating that, since the amount was not recovered from the possession or residence of Mr. R.D.Gupta and the person from whom the money was recovered had been

changing hands, it was found that no direct link between the cash and Mr. R.D.Gupta, could be established.

3. It is further noted in the above letter as under:

> "ACB, Rajasthan in its investigation could not specify any specific cases where Sh.R.D.Gupta favoured or intended to favour the assesse in lieu for money. Therefore the request of ACB, Rajasthan to prosecute the officer was not accepted by the department and it was decided that a Vigilance inspection of the work of Sh.R.D.Gupta as CIT(A), Ajmer especially appellate cases of Bhilwara may be conducted. The CVC concurred with the recommendation of the department."

4. The letter further proceeds to state the following:-

> "Thus, the case of Sh. R.D.Gupta, then CIT(A), Ajmer, is to be seen from the background of the case of ACB, Rajasthan where due to lack of finding of any direct link with the cash of Rs.3,80,000/- found in the vehicle travelling behind his vehicle, the department did not proceed with the prosecution and rather considered the case to be fit for vigilance inspection into the appeals decided by him especially of Bhilwara region, in order to take the report of ACB, Rajasthan, to logical conclusion."

5. In that view of the matter, the conduct of the Respondents in continuing to keep the inquiry proceedings against the Petitioner alive, appears to be unreasonable. The Court accordingly quashes the inquiry proceedings. The impugned order of the CAT is set aside with a direction to the Respondent to grant all consequential benefits to the Petitioner. If the salary and other emoluments due to the Petitioner are not paid within a period of 12 weeks from today, the Respondents shall pay simple interest @ 6% per annum for the period from which the amount were due till the date of payment.

6. The Respondents shall pay costs of Rs. 20,000/- to the Petitioner within a period of 8 weeks. The petition is disposed of in the above terms.

S. MURALIDHAR, J.

TALWANT SINGH, J.

DECEMBER 10, 2019 / tr