

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. /136/91
T.A.NO.

DATE OF DECISION 29-1-1997

P.D.Panjewani

Petitioner

Mr. M.M. Anand

Advocate for the Petitioner [s]

Versus

Union of India & ors.

Respondent

Mrs. M.M. Bhatt

Advocate for the Respondent [s]

CORAM

The Hon'ble Mr. V.Radhakrishnan

Member (A)

The Hon'ble Mr. T.N.Bhat

Member (J)

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lerdships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

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P.D.Panjwani,

address: Block No.195-B,
Sardarnagar,
Ahmedabad-382475

Applicant

Advocate Mr. M.R.Anand

versus

1. Union of India, Through :

The Secretary,
Ministry of Finance,
Secretariat,
New Delhi.

2. Commissioner of Income-Tax,
Gujarat-I,
Aaykar Bhavan,
Ahmedabad.

Respondents

Advocate Mrs. M.M.Bhatt

O R A L O R D E R

O.A. 136 of 1991

Date: 29-1-1997

Per Hon'ble Shri T.N.Bhat

Member (J)

None present for the applicant.

Mrs.Bhatt, learned counsel for the respondents is present. On the previous date of hearing, it was made clear by this Tribunal that no further time

will be given for arguments in view of the fact that the enquiry proceedings have been stayed.

Today, nobody has appeared for the applicant.

2. Accordingly, we have heard the learned counsel for the respondents on merits of O.A. and have decided to dispose of the O.A. today itself.

3. This O.A. is directed against the charge-sheet served upon the applicant as also the order by which the Inquiry Officer has been appointed to conduct the enquiry.

4. Briefly stated, the charge against the applicant is that during the financial year 1986-87, while functioning as I.T.O., the applicant had finalised the income tax assessments in trust cases without proper scrutiny and investigation thereby causing loss of revenue and corresponding undue benefits to the assessees.

5. The impugned orders have been assailed mainly on two grounds: Firstly, it is stated that the applicant having acted in judicial or quasi judicial proceedings, his action cannot

form the basis of disciplinary action. Secondly, it is urged that there has been delay in initiating the disciplinary proceedings.

6. We have considered the contentions made by the applicant in this O.A. as also the arguments of Mrs.Bhatt, learned counsel for the respondents.

7. As regards the first point, the applicant appears to have placed reliance on the judgment of the Apex Court in the case of V.B.Trivedi Vs. Union of India & ors. (Civil Appeal No.4986-87 of 1990) A copy of the judgment of the Apex Court has been annexed with the rejoinder filed by the applicant. However, on the perusal of the said copy, we find that the facts are distinguishable. In the case before the Apex Court, the departmental enquiry had been conducted and the commissioner had ultimately come to the conclusion that the charge framed against the appellant before the Apex Court had not been proved. In the instant case, the enquiry

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has not even started as yet, and the applicant instead of participating in the enquiry proceedings came to the Tribunal and obtained an order of stay of the proceedings.

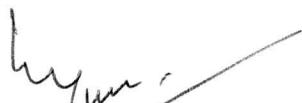
8. The learned counsel for the respondents during the course of arguments cited before us a detailed judgment of the Hon'ble Supreme Court delivered in Union of India & ors. Vs. A.N. Saxena which is reported as AIR 1992 SC 1233. It was held in the judgment (supra) that an argument, that no disciplinary action can be taken in regard to actions taken or purported to be done in the course of judicial or quasi judicial proceedings is not correct. It was further held that where the actions of the charged officer indicates culpability, namely, a desire to oblige himself or unduly favour one of the parties for an improper motive, there is no reason why disciplinary action should not be taken.

9. In view of the above judgment of the Apex Court, the first point raised by the applicant has to be rejected.

10. As regards the contention of delay,

it will suffice to say that there is no hard and fast rule as to when delay in initiating the disciplinary proceedings would be fatal to such proceedings. It is now well-settled that where the charges are grave mere delay cannot vitiate the disciplinary proceedings. It is open to the applicant to raise any plea before the Inquiry Officer or the Disciplinary Authority. But so far as the prayer for interfering with the inquiry at the interlocutory stage is concerned, we do not find any justification for doing so, in this case.

11. For the foregoing reasons, we find no merit in this O.A. and we hereby dismiss the same, leaving the parties to bear their own costs.


(T.N.BHAT)

Member (J)


(V.RADHAKRISHNAN)

Member (A)

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