

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

R.A. NO. 49 of 1997 in
O.A.NO. 136 of 1991.
~~EXAMINER~~

DATE OF DECISION 4-8-1997.

Pesumal D. Panjwani Petitioner

Mr. D. C. Raval Advocate for the Petitioner [s]

Versus

Union of India and others. Respondent

 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 Lordships wish to see the fair copy of the Judgment ?
- 4, Whether it needs to be circulated to other Benches of the Tribunal ?

Pesumal D. Panjwani,
Block No.195-B,
Sardarnagar,
Ahmedabad - 382 475.

...Applicant
(Original Applicant).

(Advocate : Mr.D.C.Raval)

Versus

1. Union of India,
(Notice to be served through
the Secretary,
Ministry of Finance,
Secretariat,
New Delhi.)

2. Commissioner of Income-tax,
Gujarat-I,
Aayakar Bhavan,
Ahmedabad.

...Respondents.
(Original Respondent).

(DECISION BY CIRCULATION)

ORDER

R.A.NO. 49 OF 1997
in

O.A.NO. 136 OF 1991.


Date : 4-8-1997.

Per : Hon'ble Mr.T.N.Bhat : Member (J)

1. We have gone through the the contents of the Review Application and have also examined the relevant records.
2. Aggrieved by the action of the respondents in serving a charge sheet upon the review applicant for alleged misconduct he filed O.A./136/91. The O.A. was admitted and interim relief staying the enquiry proceedings was also passed in favour of the review applicant.

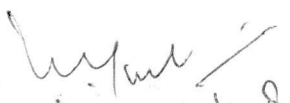
3. When the matter came up for final hearing on 29.1.1997, neither the applicant nor his counsel was present. We, accordingly, heard the learned counsel for the respondents and disposed of the O.A. by an oral order on the same date. By the aforesaid order the O.A. was dismissed. By this R.A. the applicant seeks review of that order.


4. As already mentioned in our Judgment dated 29.1.1997, both the points raised by the review applicant in his O.A. were found to be devoid of force. We have held, on the strength of a Judgment of the Apex Court in A.N.Saxena (AIR 1992 SC 1233) that disciplinary inquiry is not vitiated merely on the ground that the delinquent officer was discharging quasi judicial functions. On the question of delay we held that there was no rule of universal application that mere delay would be fatal to the disciplinary proceedings. The review applicant has now sought to question the correctness of the view taken by us. In our considered view such a plea can only be taken in an appeal and not in a review application. It is open to the review applicant to question the correctness of our view by filing an appeal. Filing a Review Application is not the proper remedy for him.



5. Another point raised in the Review Application is that since the orders of assessment passed by ^{the} review applicant were upheld by the Income Tax Appellate Tribunal no disciplinary proceedings could validly be initiated against him on the basis of those assessment orders. We do not find any authority for the view that merely because a higher authority has upheld an assessment order no misconduct can be attributed to the official passing the assessment order. Furthermore, this plea can be taken by the review applicant before the inquiry officer and the disciplinary authority who will have the occasion to examine the plea on its merits and give its decision thereon.

6. In view of what has been held and discussed above, we find no grounds to review the Judgement dated 29.1.1997. This Review Application is, accordingly, rejected.


(T.N.Bhat)
Member(J)


(V.Radhakrishnan)
Member (A)

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