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CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION No.326 of 1990.

Date of Decision:- 13th.May,1991.

K.Ranganayakulu ... Applicant.

V e r s u s,

Union of India & Ors. ... Respondents.

For the Applicant:-

M/s.Sk.Aziz,A.K.Mohanty,  
M.K.A.Baig,M.R.Biswal,  
S.K.Jena,K.Moharana,  
A.Kanungo,Advocates.

For the Respondents:

Mr.A.K.Ray,S.Ray  
Mr.P.Mohanty,Advocates

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C O R A M ;

THE HON'BLE MR.B.R.PATEL,VICE-CHAIRMAN.

A N D

THE HON'BLE MR.N.SENGUPTA, MEMBER (JUDICIAL) .

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1. Whether reporters of local papers may be allowed to see the judgment ?
  2. To be referred to the reporters or not ? *No.*
  3. Whether Their Lordships wish to see the fair copy of the Judgment ?
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J u d g m e n t .

N. SENGUPTA, MEMBER (J) .

The averments in the application, put in brief, are that the applicant was working as a Tax Assistant in the office of Income Tax Officer (ITO) Ward 'D' Circle-1, Cuttack. A disciplinary proceeding has been started against him on an allegation that he was instrumental in getting four returns filed in the names of four fictitious persons attaching to these returns, fictitious certificate of tax deducted at sources. The applicant has further averred that the returns were submitted to the ITO and the I.T.O. after examining the returns calculated the amounts to be refunded to those persons and accordingly refund vouchers were sent by Registered Post. The Department, according to the applicant, placed him under suspension with effect from 15.9.1987 on those unfounded allegations. Respondent No.4 i.e. Deputy Commissioner Income Tax, Northern Range informed him that the Deputy Commissioner of income Tax, Chowranghee square was appointed

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as the Enquiring Officer and the Respondent No.3 asked him to submit his written defence. He has further averred that he had nothing to do in the matter of filing of returns, if the department found that there was any prejudice to the Revenue, it should have taken action under Sub-section (1 & 2) of Section 263(D) of the Income Tax Act and as no steps was taken in time, the action against him ( the applicant) also cannot be taken. The other averments in the application need not be stated in this Judgment.

2. The case of the Respondents No.2 to 4 is that there was a C.B.I. Enquiry as suspicion arose with regard to the activities of the applicant in his official capacity and during such enquiry it was found that four returns were got filed in respect of the fictitious persons at the instance of the applicant. Accordingly, a disciplinary proceeding was started against the applicant which is pending. The other averments in the reply of <sup>the</sup> contesting respondents relate

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more to the points of law raised by the applicant with regard to revision of assessment etc. which need not be mentioned in this Judgment.

3. We have heard Mr. Aziz, learned counsel for the applicant and Mr. A.K. Ray, learned counsel for the Income Tax Department. On reading the application all that we can spell-out is that the applicant is facing a disciplinary proceeding on some charges but what the charges <sup>- are -</sup> cannot be known except <sup>inferring</sup> ~~informing~~ that the charges relate to the involvement of the applicant in getting some refund vouchers fraudulently prepared. The applicant has sought for the reliefs of quashing Annexure-2 and directing <sup>- not -</sup> to proceed with the disciplinary proceeding and a further direction to the Respondents to pay him the subsistence allowance at the rate of 3/4th. of the monthly salary payable to him with effect from 16th. March, 1988. We have already stated that no copy of the memorandum of charges have been filed nor is there any record with regard to the disciplinary proceeding, in such circumstances

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it is really impossible to opine about the validity or otherwise of the charges framed, nor can we in such circumstances stay further progress in the disciplinary proceeding. When the application <sup>was</sup> ~~is~~ filed <sup>a</sup> ~~the~~ prayer for stay of the disciplinary proceeding was made but it was for all intentions <sup>and</sup> ~~and~~ purposes refused except that <sup>a</sup> ~~the~~ direction was given not to pass final order without leave of the court. Therefore, so far as relief <sup>'B'</sup> ~~is~~ concerned, it cannot be granted for the reasons mentioned above also no order of re-instatement can be passed. However we would make it clear that after the final order in the disciplinary proceeding is passed and if the applicant has any grievance with regard to the procedure adopted by the Enquiry Officer or the disciplinary authority, this Judgment will not operate as a <sup>bar</sup> ~~part~~ against the applicant's approaching the Tribunal for any relief, if so advised. So far as the relief 'C' is concerned we would direct that payment of subsistence allowance <sup>be</sup> ~~is~~ made according

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to rules and arrears, if any, be paid to the applicant within two months from the date of the receipt of the copy of the order, ~~as per~~ ~~Rule.~~

*B. M. M. 13.5.91*  
.....  
VICE-CHAIRMAN.

*M. S. S. 13/5/91*  
.....  
MEMBER ( JUDICIAL ).

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH: CUTTACK.  
13TH. MAY 1991/ I. HOSSAIN.

