

(1)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH, NEW BOMBAY

Application Stamp No.325/87

Shri R.H.Vyas,  
Income Tax Inspector,  
C/o. Shiv Prabha Building,  
Adarsh Colony, Akola (B.R.)  
Vidarbha, (Maharashtra) ..

Applicant

v/s

1. The Commissioner of Income-Tax,  
Nagpur.

2. The Inspecting Assistant C  
Commissioner of Income Tax  
(Enquiry Officer)  
Bombay Region,  
Bombay. ..

Respondents.

Coram: Hon'ble Vice-chairman B.C.Gadgil

Hon'ble Member (A) L.H.A.Rego

Dated: 12.5.1987.

Tribunal's order  
(Per Vice-chairman B.C.Gadgil)

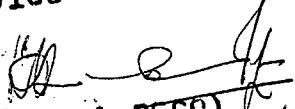
Heard the applicant in person.

We would like to hear the Respondents about  
the question of Admission and grant of Interim Relief.

Hence, issue notice for Admission to the  
Respondents returnable on 28.5.1987. On that date,  
the question of granting Interim Relief will also  
be considered.

Hamdast allowed.

  
(B.C.GADGIL)  
Vice-Chairman

  
(L.H.A.REGO) (2-5-87)  
Member (A)

Notice issued to all  
Respondent on 12/5/87

At 12/5/87.  
(Hamdast allowed)

(2)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH, NEW BOMBAY.

O.A.No. 336  
~~XXXXXX~~

1987  
~~198X~~

DATE OF DECISION 28.5.1987

Shri R.H.Vyas Applicant/s.

Shri M.A.Mahalle Advocate for the Applicant/s.

Versus

Union of India Respondent/s.

Shri P.M.Pradhan Advocate for the Respondent(s).

CORAM:

The Hon'ble Member (A), Shri L.H.A.Rego,  
The Hon'ble Member (J), Shri M.B.Mujumdar.

1. Whether Reporters of local newspapers may be allowed to see the Judgment? Yes
2. To be referred to the Reporter or not? No
3. Whether to be circulated to all Benches? No

(3)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH, NEW BOMBAY.

Original Application No.336/87.

Shri R.H.Vyas,  
Income Tax Inspector,  
C/o.Shiv Prabha Building,  
Adarsh Colony, Akola.(C.R.),  
Viderbha,(Maharashtra).

.... Applicant

V/s.

1. Commissioner of Income Tax  
Viderbha, Nagpur.

2. Inspecting Assistant C  
Commissioner of Income Tax  
(Enquiry Officer)  
Bombay Region, Bombay.

.... Respondents.

Coram: Hon'ble Member(A), L.H.A.Rego,  
Hon'ble Member(J), M.B.Mujumdar.

Appearances:

Mr.M.A.Mahalle,  
advocate for the  
applicant and  
Mr.P.M.Pradhan,  
Counsel for the  
Respondents.

Oral Judgment:

(Per M.B.Mujumdar, Member(J)) Dated: 28.5.1987.

Heard Mr.Mahalle the Learned Advocate for the  
applicant and Mr.P.M.Pradhan the Learned Advocate for  
the Respondents.

2. The applicant who is working as Inspector of  
Income Tax is facing a departmental enquiry, 11 charges  
are framed against him. One Mr.M.Mani, Income Tax  
Officer who is also an Income-Tax Officer is appointed  
as Presenting Officer and one Shri B.K.Shrivastava  
is appointed as Enquiring Authority. The applicant had  
requested for appointing Shri M.A.Mahalle who is a  
retired Assistant Commissioner of Income-Tax as his  
defence assistant. However, that request is rejected  
by the Commissioner of Income-Tax by his letter  
dt. 5th May, 1987, on the ground that Shri Mahalle

...2.

has enrolled himself as a Legal Practitioner and hence he cannot be allowed to appear as a defence assistant of the applicant.

3. The request of the applicant is rejected on the basis of Rule.14(8)(1) of CCS(CCA) Rules, that rule is as follows:

"The Government servant may take the assistance of any other Government servant posted in any office either at his headquarters or at the place where the inquiry is held, to present the case on his behalf, but may not engage a legal practitioner for the purpose, unless the Presenting Officer appointed by the disciplinary authority is a legal practitioner, or, the disciplinary authority, having regard to the circumstances of the case, so permits:

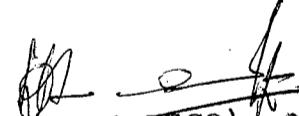
Provided that the Government servant may take the assistance of any other Government servant posted at any other station, if the inquiry authority having regard to the circumstances of the case, and for reasons to be recorded in writing so permits."

4. It was not disputed before us that Mr. Mahalle has enrolled himself as a Legal Practitioner. In fact he himself argued the matter before us on behalf of the applicant. He stated that though he is appearing in income-tax cases and cases before this Tribunal he has not so far appeared in any Criminal or Civil cases. But in our opinion that should make no difference. The second argument was that the Presenting Officer Shri M. Mani is a Law Graduate and hence the authorities should allow the applicant to represent his case through a Legal Practitioner. But Shri Mani is not a legal practitioner, though he may be a Senior Officer.

5. Shri Mahalle has relied on some cases in support of his argument that the authorities should have allowed the applicant to engage a Legal Practitioner. We have considered the cases

carefully. We have also considered the charges framed against the applicant. The charges are at pages 11 and 12 of the paper book. The charges are simple and not complicated at all. No important or complicated law points seem to have been involved in the charges. We therefore, feel that the discretion used by the Commissioner of Income Tax ~~is~~ <sup>in</sup> not allowing the applicant to represent his case through a Legal Practitioner does not deserve to be disturbed. We therefore feel that this is not a fit case to be admitted at all.

6. The enquiry against the applicant is fixed to day, but in view of this application, we are told, that it has been adjourned sine die. In fact, as we have not admitted the application so far, the enquiry should not have been adjourned sine die. With these observations, we reject this application summarily under sec.19(3) of the Administrative Tribunals Act, 1985.

  
(L.H.A. REGO) 23-5-87  
MEMBER(A)

  
(M.B. MUJUMDAR)  
MEMBER(J).