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CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

~~NEW~~ BOMBAY BENCH

O.A. No. 307/87

198

T.A. No. ----

DATE OF DECISION 2-4-1992

Balu Bhikoba Sonawane Petitioner

Mr.D.V.Gangal Advocate for the Petitioner(s)

Versus

The Inspecting Asstt. Commissioner Respondent
of Income Tax, Pune Range and one another
Advocate for the Respondent(s)

Mr.P.M.Pradhan

CORAM

The Hon'ble Mr. Justice U.C.Srivastava, Vice-Chairman

The Hon'ble Mr. M.Y.Priolkar, Member(A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? 7
2. To be referred to the Reporter or not ? 4
3. Whether their Lordships wish to see the fair copy of the Judgement ? N
4. Whether in needs to be circulated to other Benches of the Tribunal ? N

MD


(U.C.SRIVASTAVA)

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.307/87

Balu Bhikoba Sonawane,
Income Tax Officer,
Salaries & Refunds Circle I,
60/61, Erandawana,
Karve Road,
Pune - 411 004.

.. Applicant

vs.

1. The Inspecting Assistant
Commissioner of Income Tax,
Pune Range II,
60/61 Erandawana
Karve Road,
Pune - 411 004.

2. The Commissioner of Income Tax,
12, Sadhu Waswani Chowk,
Pune - 411 001.

.. Respondents

Coram: Hon'ble Shri Justice U.C.Srivastava,
Vice-Chairman.

Hon'ble Shri M.Y.Priolkar, Member(A)

Appearances:

1. Mr.D.V.Gangal
Advocate for the
Applicant.
2. Mr.P.M.Pradhan
Counsel for the
Respondents

ORAL JUDGMENT:
(Per U.C.Srivastava,Vice-Chairman)

Date:2-4-1992


By means of this application the applicant has prayed that as per the representation dated 10th September,1986 requesting to grant the arrears from 1.7.77 to 17.8.1984 along with 12% interest be granted to the applicant considering the increments due to him and necessary orders may be passed granting these arrears assuring the period of suspension as the period spent on duty ^{also} kindly be passed as the ~~applicant states that the~~ said order is no way prejudicial to the respondents as the loss of valuable seven years of service of the applicant is entirely the fault of the respondents.


2. The applicant was placed under suspension by the order dated 1st July, 1977 as criminal complaint about certain misappropriation was lodged to the police. The Special Judge, Pune discharged the applicant on 15th June, 1984 stating that "there is absolutely no material much less prima facie against the applicant to proceed against him and for framing the charge for any offence". It appears that the departmental proceedings were also started against him. The applicant approached this Tribunal against the punishment order vide O.A. No. 752/88 relying on the case of Union of India v. Mohammed Ramzan Khan, AIR 1991 SC 471 in which case it was held that wherever the report of the inquiry officer is not given to the delinquent employee by the Disciplinary Authority before passing the said order the principle of natural justice is violated and punishment order is vitiated. Accordingly we allowed the application and quashed the punishment order. The result of quashing the ~~punishment~~ punishment order could even be that the parties are relegated back to the position prior to the passing of the punishment order and for that no clarification as such is necessary. But as in the case of Mohmed. Ramzan Khan the Supreme Court has held that the judgment will not preclude the Disciplinary Authority from going ahead with the enquiry proceeding beyond the stage of giving enquiry officer's report to the delinquent employee and proceed thereafter. That legal position will stand in this case also even if no observation is made. It is for the Disciplinary Authority to ^{decide whether to} go ahead with the enquiry or not. But whatever may be

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the result in case the applicant's suspension order was not called for obviously the applicant will be entitled to certain relief which has been claimed in the representation.

3. Accordingly the respondents are directed to dispose of the representation of the applicant within a period of two months from the date of communication of this order taking into consideration the legal and correct factual position and in case he is entitled to payment of arrears of salary the same shall be made in another two months. The application is disposed of accordingly.


(M.Y. PRIOLKAR)
Member(A)


(U.C. SRIVASTAVA)
Vice-Chairman

MD