

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

Original Application No. 93/87

Mr. Vinayak Ganesh Pradhan,
Sharda Sadan,
Opp. Municipal School,
Dombivli (East),
Dist. Thane - 421 201

.. Applicant.

V/s

The Chief Commissioner of
Income Tax (Admn) &
Commissioner of Income Tax,
Bombay City-I,
Aayakar Bhavan, 3rd floor,
M.K. Marg, Bombay-400 020.

.. Respondent

Coram: Hon'ble Member (A) J.G. Rajadhyaksha

Hon'ble Member (J) M.B. Mujumdar

Appearance:

- 1) Shri M.A. Mahalle, Advocate
for the applicant.
- 2) Shri J.D. Desai, for
Mr. M.I. Sethna for the
Respondent.

ORAL JUDGEMENT

Dated: 23-3-1987.

¶ Per M.B. Mujumdar, Member (J) ¶

Heard Mr. Mahalle the learned advocate for the applicant and Shri J.D. Desai for Mr. M.I. Sethna, learned counsel for the Respondent.

2. The applicant who was working as an Income-Tax Officer Group 'B' was suspended with effect from 19-4-1984. Two charges were framed against him. The first was in respect of assessments made in several cases in a dishonest and mala-fide manner and thereby causing wrongful loss of revenue to the Government, and the second was for displaying gross negligence as well as carelessness in the discharge of his official duties. On these two charges a departmental enquiry was held against

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him. Thereafter by passing an exhaustive order the disciplinary authority i.e. The Chief Commissioner of Income Tax (Admn.) Bombay by his order dated 28-1-1987 accepted the findings of the Enquiry Officer that the applicant was guilty of both the charges and directed that the applicant be removed from Govt. service with effect from 31st January, 1987. It appears that though a copy of the order was sent to the applicant, he was not given a copy of the report of the Enquiry Authority. He requested for a copy of the same by sending a letter dated 5-2-87. On 9-2-87 he has filed the present application under Section 19 of the Administrative Tribunals Act for staying the order of the Disciplinary Authority passed on 28-1-1987. He has also asked for Interim Relief for staying the order as well as for subsistence allowance since the date of his removal from service. After the application was filed the applicant was given a copy of enquiry report and he has also filed an appeal to the competent appellate authority on 11.3.1987.


3. It is obvious that the applicant has filed this application without exhausting the departmental remedies available to him for redressal of his grievance. Moreover, the applicant is not challenging the impugned order of removal from service but his application is for stay of that order. We feel that even such a prayer cannot be granted by this Tribunal because the applicant has approached this Tribunal without exhausting his remedies. The applicant may very well request the appellate authority for granting stay of the order but an application under Section 19 of the Administrative Tribunals Act is not proper remedy for that purpose.

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4. Moreover the impugned order of removal from service is already given effect from 31-1-1987. From that date the applicant is not in service. Hence the question of staying the impugned order does not arise in this case at all.

5. We therefore reject the application summarily under Section 19(3) of the Administrative Tribunals Act, 1985.



(J.G. RAJADHYAKSHA)
Member(A)



(M.B. MUJUMDAR)
Member(J)