

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 276/2001

Dated this Thursday, the 26th day of April 2001.

Mrs. Sitadevi Balan & 2 Ors. Applicant.

Shri P.A. Prabhakaran Advocate for the  
Applicant.

VERSUS

Union of India & Two Ors. Respondents.

Shri V.G. Rege Advocate for the  
Respondents.

CORAM : Hon'ble Smt. Shanta Shastri, Member(A)

- (i) To be referred to the Reporter or not ?
- (ii) Whether it needs to be circulated to other  
Benches of the Tribunal ?
- (iii) Library. ✓

(SHANTA SHASTRY)  
MEMBER(A)

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abp

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO:276/2001.

DATED THE 26TH DAY OF APRIL, 2001.

CORAM: Hon'ble Smt. Shanta Shastry, Member(A).

1. Sitadevi Balan
2. Mrs. Sreekala Sasikumar Nair
3. Mrs. Stella Richard D'Souza

All the applicants working in the office of:

The Commissioner of Income Tax,  
City-I, Mumbai, Aayakar Bhavan,  
M.K. Road, Mumbai - 400 020.

As Stenographers

... Applicants.

By Advocate Shri P.A. Prabhakaran

V/s.

1. Union of India through  
The Chairman,  
Central Board of Direct Taxes,  
Department of Revenue,  
Ministry of Finance,  
North Block,  
New Delhi - 110 001.
2. The Chief Commissioner of Income-Tax,  
Mumbai, 3rd Floor, Aayakar Bhavan,  
M.K. Road, Mumbai - 400 020.
3. The Commissioner of Income-Tax, Rs  
City-I, Mumbai, 3rd Floor,  
Aayakar Bhavan, M.K. Road,  
Mumbai - 400 020.

... Respondents.

By Advocate Shri V.G. Rege

(O R A L) (O R D E R)

Per Smt. Shanta Shastry, Member(A).

The learned counsel for the applicant submits that the Government of India in the Department of Revenue, Central Board of Direct Taxes have taken a decision that Head Clerks and Stenographer's Grade-II are not entitled to

... 2.

advance increment on passing inspectors' examination. Therefore the two advance increments granted to the applicants have been withdrawn vide letter dated 29/1/2001 and further recovery has been ordered at page-23 vide letter mentioned above. The learned counsel further submits that similarly affected persons had approached the Tribunals elsewhere and they have been granted the relief. However, the respondents have not granted the relief to those who had not gone to Central Administrative Tribunal. The counsel requests for interim relief by way of staying the operation of withdrawal of increments and recovery of the same. *(S)*

2. Shri V.G.Rege, learned counsel for respondents submits that a number of persons affected by the aforesaid decision of the Government and the orders of withdrawal and recovery including the applicants have approached the respondents by way of representations made between 14/2/2001 to 23/3/2001. Since the representations are pending I direct that the respondents should consider these representations within a period of a Fortnight and decide the same under intimation to the applicants by a speaking order. *Thereafter if still aggrieved they are at liberty to take recourse as per law. H*

3. In the meantime, the impugned orders of recovery shall not be implemented.

4. The OA is disposed of Accordingly. No costs.

abp.

*Shanta*  
(SHANTA SHASTRY)  
MEMBER(A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

C.P.No.55/2001 in O.A.No.276/2001  
Date of Decision: 16.8.2001

CORAM: HON'BLE JUSTICE SHRI BIRENDRA DIKSHIT, VICE CHAIRMAN  
HON'BLE SHRI B.N. BAHADUR, MEMBER (A)

Smt. S. Balan & 2 ors. .... Petitioners  
(Represented by Shri P.Prabhakaran, Advocate)  
vs.

1. Shri A. Balasubramanian,  
or his successor by name in the office  
of the Chairman  
Central Board of Direct Taxes,  
Department of Revenue,  
Ministry of Finance,  
North Block-  
New Delhi 110 001.
2. Shri K.V.M. Pai  
or his successor by name in the Office of  
the Chief Commissioner of Income Tax Mumbai  
3rdfloor, Aayakar Bhavan  
M.K.Road, Mumbai 400 020.
3. Shri W. Hasan  
or his successor by name in the Office of  
The Commissioner of Income-Tax, City I  
Mumbai,  
3rd floor, Aayakar Bhavan, M.K. Road,  
Mumbai 400 020.
4. Smt. J.H. Bhojwani,  
or her successor by name in the Office of  
the Income-Tax Officer,  
Pay & Accounts,  
Office of the DDO (Admn)  
R.No.381-A, Aayakar Bhavan,  
M.K.Road, Mumbai 400 020. .... Contemnors  
(Represented by Shri V.G.Rege, Advocate).

O R D E R (ORAL)

[Per: B.N.Bahadur, Member (A)]

We are considering today the CP.No.55/2001 filed by the  
three applicants in the O.A.No.276/2001. We are assisted by the  
learned counsel Shri P.A. Prabhakaran on behalf of original  
applicants and by Shri V.G.Rege, for the respondents/<sup>alleged</sup>contemnors.

..21/BnB

Notice was issued to on the alleged contemnor viz. Smt.J.H.Bhojwani, Income Tax Officer (Pay & Accounts) in the Office of DDO (Amdn.)

2. We have perused the facts of the case and are also informed by the learned counsel Shri Rege that the main direction in the O.A. viz. that representation made by applicants should be disposed of, has since been done. It is stated by him that Commissioner of Income Tax, City-I has disposed of the representation, in so far as it relates to the applicants, on 13.8.2001. Shri Rege states it is true that the representation is not disposed of within 15 days time granted.

3. In regard to the recovery order made, it is seen that the order was made on 26.4.2001. We have carefully gone through the facts of the dates on which the original order was served and we find that the order was served on 9.5.2001 on the respondents. The recovery has been made in so far as it relates to the salary for the month of April, 2001 which is normally paid on the last date of the month i.e. on 30th. Learned Counsel Shri Prabhakaran made the point that this constituted contempt by DDO:

4. We have carefully considered the facts in the matter and <sup>are</sup> not BulB convinced that any contempt is committed. It is clear that the pay bill was drawn in time, importantly no deductions have been made from the next month right uptill date. We are also not convinced that the arguments made to the effect that the competent authority has not issued the order, since the representation was in fact made to the DDO.



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5. In view of the above facts, we discharge the notices issued and reject the C.P. It is hereby clarified that the Department is now free to carry out recoveries as per law, in terms of the orders in the O.A.

6. No costs.

*B.N. Bahadur*

(B.N. Bahadur)  
Member (A)

*B. Dikshit*

(Birendra Dikshit)  
Vice Chairman

sj\*

*dt - 16/8/07*  
order/dec. sent despatched  
to Applicant/Respondent (s)  
on 3/9/07

*M*