

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCHAPPLICATION No. 16/87

(WP.NO.)

COMMERCIAL COMPLEX, (BDA)
INDIRANAGAR,
BANGALORE-560 038.DATED: 8-6-87APPLICANT

Shri H. Rajaiah

TO

1. Shri H. Rajaiah
152-A, IV Cross
II Main Road
Prakash Nagar
Bangalore - 560 021
2. Dr. M.S. Nagaraja
Advocate
No. 35 (Above Hotel Swagath)
I Main Road, Gandhinagar
Bangalore - 560 009

Vs

RESPONDENTSThe Inspecting Assistant, Commissioner of
Income Tax, Central, B'lore and another

3. The Inspecting Assistant
Commissioner of Income Tax
Central, Bangalore
4. The Chief Commissioner (Admn) &
Commissioner of Income Tax
Karnataka - I
Bangalore - 560 001
5. Shri M.S. Padmarajaiah
Senior Central Govt. Stng Counsel
High Court Buildings
Bangalore - 560 001

SUBJECT: SENDING COPIES OF ORDER PASSED BY THE
BENCH IN APPLICATION NO. 16/87

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Please find enclosed herewith the copy of the Order
passed by this Tribunal in the above said Application on

26-5-87ENCL: As above.

for DEPUTY REGISTRAR
(JUDICIAL)

Recd
encl to all
8/6/87

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE TWENTY SIXTH MAY, 1987

Present:

Hon'ble Mr Justice K.S.Puttaswamy

Vice Chairman

&

Hon'ble Mr P.Srinivasan

Member(A)

APPLICATION NO. 16/87

H.Rajaiah,
No.152-A,
IV Cross, II Main Road,
Prakash Nagar,
Bangalore- 560 021.
(Dr.M.S.Nagaraja ... Advocate)

... Applicant

Vs.

1. The Inspecting Assistant,
Commissioner of Income Tax,
Central,
Bangalore

2. The Chief Commissioner(Admn)
and Commissioner of Income Tax,
Karnataka-I,
Bangalore-560 001.

(Shri M.S.Padmarajaiah ... Advocate)

... Respondents

This application came for hearing today.

Vice Chairman made the following:-

O R D E R

In this application made under Section
19 of the Administrative Tribunals Act of 1985
(Act), the applicant has challenged memorandum
no.C.No.34/Vig/HR/82/KTK(C) dated 23.4.86(Annexure
C) of the Chief Commissioner(Administration)
and Commissioner Karnataka-I(Commissioner).

2. At the material time, the applicant was
working as a Tax Assistant in the office of the

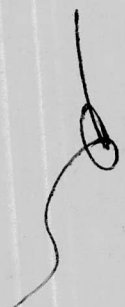
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Inspecting Assistant Commissioner of Income Tax (Central) Bangalore (IAC). When he was working in that office, in his memorandum no.CR3/Estt/Conf/82-83/IAC(c) dated 30.10.82 (Annexure A) the IAC initiated disciplinary proceedings against the applicant under rule 14 of the Central Civil Services(Classification, Control and Appeal) Rules of 1965(Rules) on the two charges framed in the Articles of charge. On this very initiation, the Commissioner appointed one Shri C.Govindan as an Inquiry Officer(IO) who held a regular inquiry under the Rules and submitted his report to the IAC on 25.2.83 in which he held that the charges against the applicant were not proved and that he was entitled for benefit of doubt. But the Commissioner taking the view that the very original initiation of disciplinary proceedings by the IAC was without jurisdiction has again issued a fresh charge memo to the applicant on 23.4.86, on the very charges earlier framed against him by the IAC on 23.10.82. Hence this application.

3. In justification of the second charge memo issued by the Commissioner, the respondents have filed their reply.

4. Dr.M.S.Nagaraja, learned counsel for the applicant contends that the second charge memo framed by the Commissioner on 23.4.86 against his

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client without completing the earlier validly initiated disciplinary proceedings by the IAC was illegal and impermissible.

5. Shri M.S.Padmarajaiah, learned counsel for the respondents sought to support the initiation of fresh disciplinary proceedings against the applicant on 23-4-1986 by the Commissioner.

6. In his fresh charge memo issued on the very charges framed by the IAC the Commissioner had not set out reasons for issuing the same. Somewhat regretfully, the Commissioner had not also made a separate speaking order and had communicated the same to the applicant. But from the papers produced before us, we find that the Commissioner had issued a fresh charge memo to the applicant, on the view that the IAC was not at all competent to initiate the proceedings and everything done on that basis including the report of the IO, were wholly without jurisdiction and as the appointing authority of the applicant, he was competent to do so. But in reaching this unduly delayed conclusion also, the Commissioner overlooked the notification no. SRD _____ dated 9.11.81 issued by Government under the Rules authorising the IACs of the department to initiate disciplinary proceedings against Tax Assistants. Under this

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notification and Rule 13 of the Rules, the IAC was undoubtedly competent to initiate disciplinary proceedings against the applicant, who was a Tax Assistant. If that is true, the proceedings by the IAC cannot be treated as non est and wholly without jurisdiction as found by the Commissioner. On this view, the ground on which the Commissioner initiated fresh disciplinary proceedings falls to the ground and the charge memo issued by him is liable to be quashed. But this cannot prevent the IAC or the Commissioner as the case may be to complete the disciplinary proceedings against the applicant on the initiation made by the IAC on 30.10.82.

7. As this matter has been pending for a fairly long time we consider it proper to direct the respondents to complete the disciplinary proceedings with expedition.

8. In the light of our above discussion, we make the following orders and directions:

- (i) We quash memorandum no. C.No.34/Vig/HR/82/KTK(C) dated 23.4.1986 of the Commissioner.
- (ii) We declare that the initiation of the disciplinary proceedings against the applicant by the IAC on 30.10.82 (Annexure A) is valid and legal and that it is open to the appropriate disciplinary authority to complete them in accordance with law.

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(iii) We direct the respondents to complete the proceedings against the applicant with expedition.

9. Application is disposed of in the above terms. But in the circumstances of the case, we direct the parties to bear their own costs.

sr

Ms. D. M. ...

VICE CHAIRMAN

P. J. ...

MEMBER(A)

26/5/87