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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY,
CAMP AT NAGPUR.

OA 26/90

Stamp Application No. N-24/89.

Smt. V.A.Sahasrabudhe.

... Applicant.

Vs.

Ministry of Finance & Ors.

... Respondents.

Coram: Hon'ble Member(J), Shri A.P.Bhattacharya,
Hon'ble Member(A), Shri P.S.Chaudhuri.

Appearances:

Mr.G.P.Hardas, advocate
for the applicant.
None present for the
Respondents.

Heard on: 16.1.1990
Judgement on: 18.1.1990

JUDGMENT:-

(Per Shri A.P.Bhattacharya, Member(J))

This application under section 19 of the Administrative Tribunals Act, 1985 has been filed by Smt. V.A.Sahasrabudhe against the Union of India, represented by the Chairman, Central Board of Direct Taxes, and three others.

2. In her application the applicant has prayed for setting aside the notice dt. 17.5.1988 issued by the Deputy Commissioner of Incometax, R.II, Nasik terminating her services. She has also prayed for issuing directions upon the respondents, so that she may be reinstated to the post of Upper Division Clerk in the Incometax Office at Jalgaon. The applicant was appointed in a temporary vacancy of Upper Division Clerk in the Incometax Office at Jalgaon by an order issued on 14.12.1987. She joined that office on 12.1.1988. Before joining that post she made a prayer to the concerned authority on 22.12.1987 for accommodating her in the Incometax Office at Nagpur, as her marriage was settled. It appears from the materials on record that after joining that post she started

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absenting from her duties. On 22.2.1988 a letter was issued by the Charge Income Tax Officer at Jalgaon directing the applicant to join her duties immediately, failing which her appointment order as U.D.C. would be liable to be cancelled. On 15.3.1988 the applicant intimated her superior authority about her marriage on 7.2.1988. She liked to put it on record the change of her surname after marriage. On the same date she offered an explanation as to why she could not join her duties before issuance of the letter on 22.2.1988. However, we get it from the annexures submitted by the applicant that in connection with her leave application the Inspecting Assistant Commissioner of Incometax, Nasik, Range-II issued a memorandum on 22.3.1988 by which the applicant was informed that she had applied for one month's medical leave from 20.1.1988 although she had no leave at her credit. The Charge Incometax Officer issued her a memo directing her to resume her duties forthwith. The applicant had not responded to that memo. By issuing that memorandum on that date the Inspecting Assistant Commissioner gave the applicant a final warning and directed her to resume her duties on or before 28.3.1988. She was made to understand by that letter that after the aforesaid date her absence from duties would be treated as unauthorised and illegal and her services would be liable to termination. On 25.3.1988 the applicant made a request for permitting her to remain on leave without pay and allowances upto 31st May, 1988 on the ground that she had accommodation problem at Jalgaon. In reply to her letter the Inspecting Assistant Commissioner of Incometax

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- 3 -

issued a letter on 19.4.1988 that her prayer for extension of leave upto 31.5.1988 could not be acceded to. She was directed to report for duties on or before 26.4.1988. It was mentioned in that letter that in the event of her failure to comply with that order it would be presumed that she was not interested in performing the job of the UDC. As the applicant was not in her recorded address the letter was received by her husband's elder brother and a reply was given by him on ^{shortly} 30.4.1988. ~~Just~~ after that on 17.5.1988 the applicant was served with a notice under Rule 5(1) of the Central Civil Services (Temporary Service) Rules, 1965, by which her services in the post of UDC in the Income-tax Office at Jalgaon was terminated on the expiry of a period of one month from the date of service of that notice. It is the applicant's case that having been served ~~t~~ with that notice of termination of services she attended her office at Jalgaon on 30.5.1988, but was not permitted to join her duties. On 27.6.1988, the applicant made a prayer to the Chief Commissioner of Incometax, Pune for revocation of the order of termination. Considering the facts and circumstances of the case as stated above we are unable to hold that the applicant can have any justiciable grievance. Having been appointed in a temporary vacancy of UDC the applicant started submitting prayers to post her at a place convenient to her. At her sweet whims she absented herself from duties. More than once she was given peremptory orders for joining her duties immediately, ~~she~~ did not feel the necessity of paying any respect to such directions, ~~she~~ continued her absence till the end of May, 1988 as desired by her earlier. Finding no other alternative the concerned authority was forced to terminate her services.

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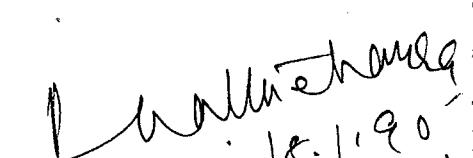
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We do not find that in doing that the concerned authority had acted illegally.

3. From the memorandum issued on 14.12.1987 we find that the applicant was offered an appointment in a temporary vacancy of UDC on certain conditions. It was made clear in Condition No.1 that such offer was temporary and her services would be liable to be terminated at any time after issuing her a notice for a period of not less than 30 days, but without any reasons being assigned. Being fully aware of such a condition of service being imperative in nature, the applicant acted as per her whims. Under Rule 5(1)(a) of the Central Civil Services (Temporary Service) Rules, 1965 the services of a temporary Government servant who is not in quasi-service permanent/ shall be liable to termination at any time by/ notice in writing given either by the Government servant to the appointing authority or by the appointing authority to the Government servant and in that case the period of such notice shall be one month. We find that the notice of termination of the applicant's service that was issued on 17.5.1988 is in conformity with the said provisions of the rule. Such being the position we find no reason to interfere with that order. Once again we hold that the applicant has no justiciable cause for which this Tribunal should intervene. Accordingly we hold that this application is not at all fit for adjudication and as such we dismiss it summarily.



(P.S.CHAUDHURI)
MEMBER(A)



(A.P.BHATTACHARYA)
MEMBER(J).