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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: ADDITIONAL
BENCH AT HYDERABAD.

O.A. NO. 200 OF 1992.

Between:

K. Subrahmanya Sastry,
S/o K. Venkatappaiah,
Tax Assistant,
Income Tax Office,
Circle-3, Aayakar Bhavan,
Andhra Pradesh, Hyderabad.

.. Applicant.

And.

1. The Chief Commissioner of
Income-Tax, Andhra Pradesh,
Aayakar Bhavan, Basheerbagh,
Hyderabad.
2. The Dy. Commissioner of
Income Tax (H.Qrs) (Admn),
Office of the
Chief Commissioner of
Income Tax, Andhra Pradesh,
Aayakar Bhavan, Basheerbagh,
Hyderabad.
3. The Dy. Commissioner of
Income Tax, Vijayawada Range,
Vijayawada, Central Revenue
Building, Bandar Road,
Vijayawada.

.. Respondents.

DETAILS OF THE APPLICATION:

1. PARTICULARS OF THE APPLICANT:

The applicant is Sri K. Subrahmanya Sastry,
S/o K. Venkatappaiah, Hindu aged about 45 years
working as Tax Assistant in the Income Tax Depart-
ment, at Hyderabad.

ADDRESS FOR THE SERVICE OF NOTICES ETC.

The address of the applicant for service
of all notices, processes etc. is that of his
counsel Sri G.V.R.S. Vara Prasad, Advocate,
113/3RT, Vijaya Nagar Colony, Hyderabad.

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2. PARTICULARS OF THE RESPONDENTS:

The particulars of the respondents are the same as in the cause title. The address of the respondents for service of all notices, processes etc. is the same as shown in the cause title.

3. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE :

The application is made aggrieved by the proceedings dated 14.3.1991 of the first respondent in No. Con. CCS.58/87/A restricting the penalty imposed by the second respondent to " stoppage of one increment without cumulative effect" and thus partly allowing the appeal of the applicant.

4. JURISDICTION OF THE TRIBUNAL.

The applicant declares that the subject matter of order against which he wants redressal is within the jurisdiction of this Hon'ble Tribunal as laid down in Sec.14(1)(b) of the Administrative Tribunal's Act, 1985.

5. LIMITATION:

It is submitted that the impugned order/dated 14.3.91 and received by the applicant on 15.3.91. As such, it is submitted that the O.A. is within the limitation prescribed u/s 21(1)(a) of the Administrative Tribunal's Act, 1985.

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6. FACTS OF THE CASE.

It is submitted that while the applicant was working as Tax Assistant in the Income Tax Office, Circle-2, Vijayawada, disciplinary proceedings were initiated against him and a charge memo dated 20.10.87 in Con. CCS.58/87 was issued (Annexure-X) and the following articles are framed against the applicant.

ARTICLE- I.

Sri K. Subrahmanya Sastry while working as Tax Assistant in A-Ward, Cir-II, Vijayawada during the period from 22.5.85 to 3.3.87 accepted the return of income for Asst. Year 85-86 of M/s Sakthi Engineering Company without a forwarding memo in violation of prescribed procedure. This return of income was antedated by Sri S.B.H.Y. Somayajulu, L.D.C. by taking bribe of Rs. 5,000/-.

By the above acts, Sri K. Subrahmanya Sastry, T.A. exhibited lack of devotion to duty and conduct unbecoming of Govt. Servant thereby violating Rule 3(1) (ii) of CCS (Conduct) Rules, 1964.

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ARTICLE-II.

Shri K. Subrahmanya Sastry while working as T.A. in A-Ward, Circle-II, Vijayawada during the period from 22.5.85 to 3-3-87 knowing fully well that the return of income for Asst. Year 85-86 of M/s Sakthi Engg. Co. was received in Feb'87 but not on 21-1-86 did not bring it to the notice of higher authorities.

By his above conduct, Shri K. Subrahmanya Sastry failed to maintain integrity and devotion to duty thereby violating Rule 3(1)(i) & (ii) of CCS (Conduct) Rules, 1964.

ARTICLE-III.

Sri K. Subrahmanya Sastry while working as T.A. in A-Ward, Circle-II, Vijayawada, during the period from 22-5-85 to 3-3-87 knowing fully well that the return of income for Asst. Year 85-86 of M/s Sakthi Engg. Co. was received in Feb'87, but not on 21-1-86, persuaded the I.T.I. Sri G.V. Satyanarayan Murthy on 25-2-87 to initial the said return of income in token of having checked, showing the date as 23-1-86.

By the above acts, Shri K. Subrahmanya Sastry failed to maintain integrity and devotion to duty and conduct unbecoming of a Govt. servant thereby violating Rule 3(1)(i) & (ii) of CCS (Conduct) Rules, 1964.

ARTICLE-IV.

Shri K. Subrahmanya Sastry while working as T.A. in A-Ward, Circle-II, Vijayawada, during the period from 22-5-85 to 3-3-87 colluded with S/Shri SHY. Somayajulu, L.D.C. and G.V. Satyanarayana Murthy, ITI in the fraud of antedating the receipt of return of income of M/s Sakthi Engg. Co. for Asst. Year 85-86 with ulterior motives.

By the above acts, Shri K. Subrahmanya Sastry failed to maintain integrity and devotion to duty and conduct unbecoming of a Govt. servant thereby violating Rule 3(1) (i) & (ii) of CCS(Conduct), Rules, 1964.

Along with charge memo, a statement of imputations of misconduct in support of the charge and also list of documents and witnesses by which the articles of charge are proposed to be proved against the applicant, are issued. Simultaneously, disciplinary proceedings were also initiated against Sri G.V. ^{ITI} Satyanarayan Murthy /and Sri SHY. Somayajulu, LDC (presently U.D.C) of the same office) on the presumption that these three colluded together and accepted the return of income in the case of M/s ~~S~~Sakthi Engg. Co., Vijayawada, for the A.Y.85-86 in Feb'87 in violation of procedure prescribed and Sri SHY. Somayajulu, L.D.C. made a false entry in the return, receipt register by antedating the date of filing of return as 21.1.86. Sri S.K. Sahu, the then Deputy Commissioner of Income-Tax, Range-III, Hyd,

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and presently Deputy Commissioner of Income Tax, Vijayawada Range, Vijayawada, was appointed as the ~~Inquiry~~ Officer in the case of all the three officials including the applicant. It is humbly submitted that the applicant was permitted to engage an advocate to defend him in the disciplinary proceedings. On behalf of the Department, Sri K.W.S.R. Sastry, Asst. Commissioner of Income Tax, Vijayawada, was examined as a witness. (Annexure -IX). Sri K. Yagnarayana, Chartered Accountant, was examined as a defence witness in the case of Sri S.B.Y.Y. Somayajulu, L.D.C. and statement of Sri K. Yagnarayana, C.A., is at (Annexure V-II). During the course of enquiry a letter was filed on 17.2.1989 (Annexure-V-III) before the enquiry officer seeking ~~the production~~ a direction for production of the following documents.

1. Misc. records of M/s Shakti Engg. Company.
 - a. for the assessment year 1985-86
 - b. for the assessment year 1986-87.
2. Assessment orders of M/s Shakti Engineering Company.
 - a. for the assessment year 1985-86.
 - b. for the assessment year 1986-87.
3. I.T.O's report on survey u/s 133A dated 2.3.87 conducted.
4. Letter dated 2.3.87 of Sri K.Yagnarayana obtained during the course of the said survey operation.
5. Return of income of M/s Shakti Engineering Company for the assessment year 1986-87.
6. Form No. 12 filed by M/s Shakti Engineering Company, Vijayawada for the assessment year 1985-86 and 27.6.1985 before the I.T.O. A-Ward, Circle No.II, Vijayawada.

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7. Head clerk's copies of forwarding memos of all wards of Circle II, Vijayawada, from 21.1.86 to 28.1.86.

In pursuance of the above letter, the Presenting Officer produced all the documents required by the Defense ^{Assistant} ~~witness~~ from S.No. 1 to 6 and only some forwarding memos relating to the receipt of returns but not all the forwarding memos of the returns. Sri M. Naseem Ahmed, Asst. Commissioner of Income Tax, the Presenting Officer has submitted his brief to the Inquiry Officer on 25.4.89(A-VI) and later on the defense brief (Annexure-V) was submitted. The report of the Inquiry Officer is dated 26.2.90(Annexure-IV). The Inquiry Officer gave his findings in respect of the various charges as under:

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Article-I.

The charge that the Charged Official exhibited lack of devotion to duty and conduct unbecoming of a Government Servant under rule 3(1) and (iii) of C.C.S. (Conduct) Rules, 1964, are proved.

Article-II.

The charges under this article are not proved.

Article-III.

The charge that the Charged Official exhibited lack of devotion to duty under rule 3(i)(ii) is proved. The charge of failure to maintain integrity is not proved.

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" Article-IV.

None of the charges mentioned in this article is proved.

To sum up, the Charged Official is not a party to any ulterior design. No illegal gratification, either financial or otherwise, could be proved in his case. The simple mistake committed by him was violation of established procedure for receiving a return of income without a forwarding memo as mentioned in Article-I. Further, as a natural corollary, he has requested Sri Murthy, Inspector for a verification of this return of income. The violations committed by the charged official are, as pointed out by me earlier, out of friendly feelings towards a junior colleague and to help him in setting right an entry for a return without the notice of the Higher Authorities. The violation of such established procedure, though not frequent, are not totally non-existent in the day-to-day life in the department. I have a sincere feeling that when malafide is not proved, such mistakes though constitute violations of Conduct rules may not be considered as grave offences. I am entirely in agreement with the Defence Counsel that instead of too legalistic or hyper-technical an approach, a humanistic approach will be in fitness to the facts and circumstances of the case. "

The second respondent, by his proceedings dated 10.7.90 in No. Con.CCS/58/87(Annexure-III) passed the order under Rule 15 of CCS(CCA) Rules, 1965, awarding a penalty of withholding of two increments with cumulative effect. The second respondent disagrees with the finding of the

Inquiry Officer that the statements recorded during the preliminary enquiry from the applicant and also from the other two officials viz. G.V. Satyanarayana Murthy, I.T.I. and S.B.HY. Somayajulu, L.D.C. against whom disciplinary proceedings were simultaneously initiated, stands as a basic and primary document and carries with it evidentiary value for holding of an enquiry under the CCS(CCA) Rules which cannot be ignored during the course of regular enquiry. The Disciplinary Authority viz. the second respondent at para 4 of his proceedings stated that even though the enquiry is remitted back to the Inquiry officer for dealing with enquiry denovo, he had not chosen to do so as a finding of the article of charge could be arrived at even without admitting the statements referred to above. It is submitted that the enquiry officer has agreed with the finding of the presenting officer in respect of the first charge and held that the applicant received the return of income without a forwarding memo in violation of prescribed procedure and thus exhibited lack of devotion to duty and conduct of unbecoming of a Govt. servant. He has also held that failure to maintain absolute integrity is not proved. In respect of the second charge, the second respondent differed with the finding of the enquiry officer and held that the charge is proved to the extent of lack of devotion to duty but however, held that failure to maintain absolute integrity is not proved. Regarding the charge No. 3, the second respondent agreed with the findings of the enquiry officer.

The second respondent deferred with the Inquiry officer and held that the applicant is guilty of conduct unbecoming of a Government servant and also exhibiting lack of devotion to duty but failure to maintain absolute integrity ~~is~~ was held as not proved. After coming to the above conclusion, the second respondent imposed a penalty of with-holding of two increments with cumulative effect.

Aggrieved by the above order of the second respondent, the applicant preferred an appeal dated 27.8.90 (Annexure-II) to the first respondent. The first respondent, by his proceedings dated 14.3.91 in Con.CCS.58/87/A (Annexure-I) has passed the order under Rule 27(2) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, partly allowing the appeal and restricting the penalty to stoppage of one increment only without with-cumulative effect as against/holding of two increments with cumulative effect imposed by the Disciplinary Authority.

It is humbly submitted that the survey operations u/s 133A of the I.T.Act, were conducted in the case of M/s Sakhti Engineering Co, Vijayawada (herein after referred ^{to} as the firm) on 3.3.87(A-XV) and also in the case of Sri K. Yagnarayana, C.A. (Annexure -XIV) on 2.3.87-, with a view to find out the actual date of filing of return relating to the firm for the A.Y. 1985-86 and to verify

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copies of statements filed with the returns and the acknowledgement issued by the Income Tax Office. As could be seen from Col. 7 of the 133A report in the case of firm (Annexure -XV) the return was filed on 21.1.86 under acknowledgment slip No. 009648, while returns in the case of partners were filed on 30.9.86. No incriminating material was found during the course of survey operations conducted either at the premises of Sri K.Yagnarayana, C.A. or at the premises of the firm as could be seen from the reports u/s 133A.

It is also submitted that a letter was obtained from Sri K. Yagnarayana C.A., during the course of survey operations under section 133A on 2.3.87 (Annexure-X.III) in which the C.A. has stated that the return of income for the A.Y. ~~865~~ 1985-86 in the case of firm was prepared in January, 1986 and that he does not remember whether the return was filed in the Income Tax Office by the assessee or by himself. He has also stated that the acknowledgment for the same is available with the assessee. This statement of the C.A. was confirmed ~~with~~ when the authorities found the acknowledgment slips in the premises of the firm of M/s Sakhti Engg. Company, Vijayawada, during the course of survey operations u/s 133A. It is submitted that on 4.3.1987 Sri G.B.Kanungo, ~~the third respondent,~~ who was holding office of the third respondent at that time, addressed a D.O. letter (Annexure-XVI) to the Commissioner of Income Tax, Visakhapatnam,

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wherein he has stated that he verified returns receipt register of Income Tax Officer, C-II, Vijayawada, relating to the financial year 85-86 on a oral complaint received regarding the date of filing of income return for the A.Y. 85-86 in the case of M/s Sakhti Engineering Co, and found that the return was antedated by accepting bribe by Sri Somayajulu, LDC and Sri K. Subramanya Sastry, Tax Assistant (applicant herein) is also involved in placing the antedated return on file. It was also stated in the said D.O. letter that it is mystery as to how the signature of the then Income Tax Officer^{SA} A. Subba Rao was got on the return.

It is humbly submitted that during the course of disciplinary proceedings, only one ^{was examined} witness on behalf of the Department namely Sri K.V.S.R. Sastry, Asst. Commissioner of Income Tax, Vijayawada, who has categorically stated that the return of income bears the initials of his predecessor and that he joined as I.T.O. A-Ward, Circle-II, Vijayawada, in May, 1986. He has also stated that the return of income of the firm for the A.Y. 1985-86 was filed on 21.1.86 and that of for the A.Y. 86-87 on 29.9.86, as could be seen from the dates stamp on the respective returns. He has also stated that the audit report for the year ended 31.3.85 was dated 6.7.85. Sri K.V.S.R. Sastry, during his examination in reply to Q.No.81, had categorically admitted that the return of income of the firm for the A.Y. 85-86 bears the date stamp and initials of the Income Tax Officer. He has also stated in response to Q.No. 83, that

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there would^{be} no difference in the treatment of loss since Form No. 6 seeking extension of time for filing of return of income of the firm was not filed in the Department.

It is also submitted that Sri K. Yagnanarayana, C.A., who was examined as Defence witness in his deposition (Annexure V-II) has clearly admitted that he has not given any amount to Sri Somayajulu, L.D.C. and also that he has not approached him at any time for any help. He has specifically stated that he has not given any amount with regard to any matter relating to the firm including the filing of the return. He has also stated that he was told^{by} one of the partners of the firm^{that none} had ever paid any amount to Sri Somayajulu, L.D.C. During the course of cross-examination he has categorically stated that he has not filed return of the firm for the A.Y. 85-86 and he has not approached Sri Somayajulu, L.D.C. to back date the return. He has also stated that he has not offered Rs. 5,000/- to Sri Somayajulu, L.D.C. for back dating the return.

As per the procedure prescribed for the receipt and filing of income tax returns (Annexure-^{xix}~~19~~) each counter clerk will be supplied with an automatic machine (numbering) with facility for stamping the same number, at least twice in succession. There will also be a date-stamp with the office seal. One clerk at the counter will make preliminary scrutiny and on being satisfied ~~that~~ the return contains all the columns duly filled in, verification has been signed and also enclosures as listed by

by the assessee are available, the counter clerk will affix the date stamp on the first page of the return and on the acknowledgement form, he will ~~send~~ then affix the serial No. on the return and the acknowledgement form then hand over the acknowledgement to the assessee. The number machine^r shall be set to record the serial number in the register for the receipt of the returns, on the return, on the acknowledgement portion retained along with return and the acknowledgement passed on to the assessee. Returns received by the Post will also ^{be} ~~process~~ in same manner. Any return found defective or deficient^{ly} in any manner will be returned to the assessee on a rejection slip. The returns received will then be entered in the return receipt register and entries in the register will ^{be} made in the order of the receipt and not I.T.O. wise. After completing the entries in the Register and sorting the returns I.T.O.-wise, a forwarding memo will be prepared for each I.T.O. This forwarding memo will record only the total number of returns and the serial numbers of returns which are being forwarded to the I.T.O. and will be prepared in triplicate. The forwarding memo in triplicate alongwith the returns will be sent to the concerned I.T.O. The returns received by the I.T.O. concerned will be initialed and the I.T.O. will return by keeping a copy of the forwarding memo,

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the buncle of returns alongwith forwarding memo to the concerned Ministerial Head., i.e. Head Clerk or Supervisor. The head clerk or supervisor will ^{return} ~~return~~ one copy of the forwarding memo duly signed by him to the receipt counter and the returns are distributed ~~to~~ by the H.C./Supervisor and the initials of the respective dealing clerks obtained on the ^{third} ~~copy~~ of the forwarding memo. The forwarding memos containing the acknowledgements of the dealing clerks will be got bound once a month ~~or~~ at lesser intervals depending on the number of memos and kept in the custody of the I.T.O. who will be in administrative charge of the counter.

It is submitted that the return in the instant case, is bearing the machine serial number, date stamp(21.1.86) and the initial of Sri A. Subba Rao, the then I.T.O. Furthermore, it is submitted that there is no advantage to the assessee even if the return was filed in February, 1987 and it ^{is} ~~is~~ all ^{the} ~~the~~ more ~~than~~ the same whether the return was filed on 21.1.96 or in February, 1987, since the loss returned by the assessee cannot be carried forward as the return is belated one.

It is humbly submitted that ^{the} ~~the~~ impugned order dated 14.3.91, ~~of~~ the first respondent, is highly illegal, arbitrary, unjust and improper for the following among other grounds:

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1. The first respondent ought to have seen that all the forwarding memos were not produced by the Presenting Officer during the course of ~~enquiry~~ and as such the finding of the ~~enquiry~~ officer that the return was received by hand and not through a forwarding memo is baseless and pervers~~ly~~.
2. The first respondent failed to see that the second respondent gravely erred in concluding that the applicant received the return without a forwarding memo thereby exhibiting lack of devotion to duty and conduct unbecoming of a Govt. servant, especially when the return in question bears the initials of the then I.T.O. A. Subba Rao with date stamp 21.1.86 and Sri K.V.S.R. Sastry, successor, Asst. Commissioner of Income-Tax, who assumed charge in May, 1986, admitted that the return bears the initial of Sri A. Subba Rao, the then I.T.O. Hence, the conclusion arrived at by the ~~applicant~~ disciplinary authority that the return was received by the applicant in violation of the procedure prescribed falls to the ground since it cannot be presumed that the then I.T.O. has initialed on the return when the same was received

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not ~~th~~rough a forwarding memo.

3. The first respondent failed to see that the second respondent gravely erred in coming to the conclusion that the applicant was aware of the irregularities committed by the LDC and as a responsible official should have ~~been~~ brought to the notice of superior authority and by not doing so, the applicant exhibited lack of devotion to duty. It is submitted that there is no wishper in the entire deposition of Sri K.V.S.R, Sastry, Asst. Commissioner of Income Tax, who was examined on behalf of the Department that Sri S.B.H.Y.Somayajuly, L.D.C. violated the procedure and the applicant was aware of the irregularities of the return not being entered in the first instant in the return receipt register and received the return without a forwarding memo. It is for the Department to prove that the applicant received return without a forwarding memo and ~~without~~ all the forwarding memos were not produced before the enquiry officer, ^{and therefore} it cannot be said that the return in the instant case was received by the applicant without a forwarding memo. It is only the presumptions and surmises of the

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second respondent that the applicant is aware of the so called irregularities committed by the L.D.C. and as such the finding regarding Charge No. 2 is based on presumptions and surmises and ^{not} borne out of any evidence.

It is submitted that first respondent ought to have seen that the finding of the enquiry officer that there is ^{an} ~~no~~ element of persuasion on the part of the applicant to Mr. Murthy, I.T.I. is without any basis. and not born out of evidence and as such the first respondent should have seen that the second respondent erred in holding that the Charge No. 3 to the extent of lack of devotion to duty is proved.

4. The first respondent ought to have seen that the second respondent erred in concluding that the applicant ~~is~~ actively participated in and also contributed ⁱⁿ the commission of the mis-conduct along with other two officials and the finding of the second respondent that the charged official is guilty of ^{conduct} ~~unbecoming~~ of Govt. servant and exhibited lack of devotion to duty is not born out of any record but it is ~~the~~ ^{his} out come of ~~the~~ presumptions and surmises. As could be seen from the D.O. letter of Sri G.B.Kanungo, the then I.A.C. Vijayawada(presently the second respondent) and Disciplinary Authority who passed the order of punishment

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dated 10.7.90, to the Commissioner of Income Tax, Visakhapatnam, ~~an~~ an oral complaint received by him was the basis of initiation of disciplinary proceedings. Neither the gist of the complaint was supplied to the applicant nor the complainant was examined during the enquiry proceedings. It is submitted that the entire enquiry is vitiated on this ground alone. The first respondent gravely erred in partly sustaining the penalty imposed by the second respondent since the return filed is belated one and consequently the loss cannot be carried forward whether the date of filing is Jan'86 or any subsequent date.

5. The first respondent failed to see that all the forwarding memos were not produced by the presenting officer and as such it cannot be said that there is any violation of procedure. Even presuming that there is infraction of the procedure which is of a minor nature, it is submitted that the penalty is not warranted merely because there is minor infraction of procedure, so long as the same is not coupled with any motive or malafide intention. In the instant case, when these things are silent the applicant ought not to have been penalised.
6. The first respondent gravely erred in thinking that the duties of the Dy. Commissioner of Income-Tax(Audit) and the Dy. Commissioner of Income-Tax (Hqrs) (Admn), are one and the same. It is submitted that the Dy. Commissioner of Income-Tax (Hqrs) (Admn) discharges

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the functions of the C.I.T.(Admn) so far as the administrative matters are concerned while the Dy. Commissioner of Income Tax (Addit) stands on the same footing as the other Dy. Commissioners of Income Tax.

7. The first respondent erred in holding that Sri G.B.Kangungo, who conducted preliminary enquiry cannot act by himself as the Disciplinary Authority and pass the order of penalty dated 10.7.90 as the Dy. Commissioner of Income Tax (Hqrs) (Admn). His D.O. letter dtd.4.3.87 addressed to the Commissioner of Income-tax, Visakhapatnam, amply demonstrates his mind over the issue and as such as Disciplinary Authority, he carried the same impression which ultimately found place in the order of punishment. Unfortunately, the first respondent ignored this vital fact and negatived the contentions of the appellant in this regard.
8. The first respondent ought to have seen that since the return bears the initials of the then I.T.O., it should be presumed that the I.T.O. initialled on the return when the bundle of the returns was received by him alongwith the forwarding memos and not otherwise. If the contentions of the Department were to be accepted, it should be presumed that the I.T.O. has also violated the procedure in initialing the return and as such the applicant, Sri Somayajulu, LDC, and G.V.S.N. Murthy, I.T.I. alone cannot be penalised leaving the I.T.O. who has also violated the procedure.
9. The first respondent ought to have seen that there is no material putforth during the enquiry that some person approached

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the L.D.C. to receive the return without following the usual procedure and as such the findings that the applicant exhibited lack of devotion to duty by not bringing the said facts to the notice of the higher authorities falls to the ground.

10. The first respondent ought to have seen that the finding of the enquiry officer that there is an element of persuasion on the part of the applicant to get the return verified by the I.T.I. is not borne out of evidence and as such the finding regarding that portion of the charge is not sustainable.

11. The first respondent failed to see that finding of collusion of the applicant with the other two officials is not established by any material whatsoever.

12. The first respondent ought to have seen that there is no collusion at all since the return was received in the normal course.

7. DETAILS OF REMEDIES EXHAUSTED.

It is submitted that the impugned order dtd.14.3.91 of the first respondent is the appellate order and there is no alternative remedy provided against the impugned order except to invoke the extraordinary jurisdiction of this Hon'ble Tribunal for the reasons stated supra.

8. MATTER NOT PENDING OR PREVIOUSLY FILED IN ANY OTHER COURT.

It is submitted that the applicant has not filed any writ or suit and that no writ or suit is filed or is pending in any other court for the relief sought for in this O.A.

9- RELIEF SOUGHT FOR:

In view of the facts mentioned in para 6 the applicant prays for the following relief:

To declare the action of the first respondent in partly allowing the appeal of the applicant by stoppage of one increment without cumulative effect as highly

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illegal, arbitrary, unjust and improper and consequently set aside the order dtd. 14.3.91 of the first respondent in Con. CCS.58/87/A and thus fully exonerate the applicant and pass such other order or orders as are deemed fit and proper in the circumstances of the case.

10. INTERIM ORDER PRAYED FOR:

The action of the first respondent is based on perverse findings. The applicant is on the verge of promotion as Head Clerk. It is, therefore, prayed that this Hon'ble Tribunal may be pleased to fix an early date of the O.A. as otherwise the applicant would suffer serious loss and irreparable damage.

11. PARTICULARS OF THE APPLICATION FEE:

No. of Indian Postal Order. CN/431579
Name of the Issuing Post Office. *Vijayanagar Colony, Hyderabad*
Date of issuing Postal Order: *12.2.92*
Post Office at which payable. *G.P.O., Hyderabad.*

12. LIST OF ENCLOSURES:

1. Postal Order for Rs. 50/-
2. Index of material papers alongwith the material papers.
3. Vakalat.
4. Three full size envelopes.
5. One file pad.

VERIFICATION.

I, K. Subrahmanya Sastry, S/o K. Venkatappaiah,
Tax Assistant, resident of Hyderabad, do hereby

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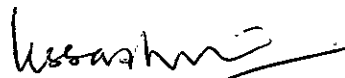
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verify that the contents of paras 1 to 6
are true to my personal knowledge and
paras 7 to 12 are believed to be true on
legal advice and that I have not suppressed
any material facts in the above O.A.

Hyderabad.

Dated: 12.3.1992.


SIGNATURE OF APPLICANT.


COUNSEL FOR THE APPLICANT.

To
The Registrar,
Central Administrative Tribunal,
Additional Bench at Hyderabad,
HYDERABAD.