

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI**

ORIGINAL APPLICATION No.488/2017

Date of Decision: 14th August, 2017

**CORAM: HON'BLE Shri Arvind J. Rohee, MEMBER (J)
HON'BLE Ms. B. BHAMATHI, MEMBER (A)**

Thakur Abhiraman Kumar,
Aged around 46 years,
Son of Shri Bisheshwar Prasad Singh,
Presently working as Income Tax,
Officer, Ward 10(3), Pune,
Resident of Row House No.09,
Ved Utsav, Moreshwar Co-operative
Housing Society, Sutgirni Chawk,
Garkheda, Aurangabad 431009.

...Applicant.

(By Applicant Advocate: Shri.S.V. Marne)

Versus.

1. Union of India
Through The Chairman,
Central Board of Direct Taxes,
North Bock,
New Delhi 110 011.

2. The Principal Chief Commissioner
of Income Tax, Pune,
Aayakar Bhawan, 12 Sadhu
Vaswani Road, Pune: 411 001.

3. The Principal Commissioner
of Income Tax-5, Pune, Pratyakshakar
Bhavan, Nr.Akurdi Rly. Station Pradhikaran,
Pune : 411044.

... Respondents

(Respondents by Advocate -x-)

ORDER (Oral)

Per:- HON'BLE Ms. B. BHAMATHI, MEMBER (A)

This OA has been filed by the applicants under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

“(i). This Hon'ble Tribunal may graciously be pleased to call for the records of the case from the Respondents and after examining the same, quash and set aside, impugned letter dated 31/07/2017, and direct the Respondents No.3 to allow leave to the Applicant with immediate effect and for remaining period, as the Applicant's fifth semester classes have already started from the month of July 2017 and fifth Semester exam is likely to be held in the Month of October, 2017, for which 75 percent attendance is compulsory.

(ii). Costs of the Application be provided for;

(iii). Any other order of direction which the Hon'ble Court may deem fit and proper in the facts and circumstances of the case may also be passed in favour of the applicant.”

2. The applicants is aggrieved by the impugned order of R-3, rejecting Earned Leave for the period w.e.f. 07.08.2017 to 02.02.2018 to complete the LL.B course, which he joined while posted at Aurangabad, after due sanction on 02.07.2015. The

applicant has now successfully completed the IVth Semester, during his stay at Aurangabad, by attending college from 07:30 am to 10:30 am and without obstruction to discharge of official duties.

3. The applicant was due for transfer out of Aurangabad, in 2016-2017. As per laid down policy, he opted for a year's retention at Aurangabad to complete his Law course or given time to complete the course. But, the same was not accepted by R-2 and he was posted to Pune, which applicant accepted and joined. After joining at Pune, he is now being denied leave to complete his LL.B course.

4. The applicant has also prayed for interim relief for directing the respondents to grant leave to the applicant till 31.10.2017 so that he would be able to complete Vth Semester exam to be held in the month of October, 2017. He has already lost one and a half months as the session started in Ist July, 2017.

5. We have heard the learned counsel for the applicant and perused the records.

6. It is noted that applicant's prayer for pursuing the LL.B Degree was allowed at Aurangabad, subject to the condition that the official work should not be hampered during the pursuance of the said course. The applicant was able to complete IVth Semester without obstruction to work. His request for continuing at Aurangabad to complete his LLB degree was not accepted and he was transferred to Pune. The applicant joined at Pune but, as per his option sought leave to complete the course. The ground on which the applicant's prayer for grant of 7 months leave was rejected by impugned order dt.31.07.2017 was that the time barring assessment works and other important works will be hampered, if he is granted leave.

7. The applicant's prayer for interim relief is a modified prayer for granting of leave upto October, 2017. The applicant states that he would apply for intermittent leave to fulfill the mandatory requirement of 75% attendance. In the intervening periods he would discharge his duties to the satisfaction of respondents. This would

help him to complete his LL.B course also, which he took up, after in principle sanction by respondents.

8. In the course of oral hearing, emphasizing the prayer for interim relief, the applicant shows his intention to complete his course, even while being available to attend to his official duties required of him while working at Pune. In effect, the applicant seeks some adjustment on the part of the respondents, otherwise his completed semesters in the last two years would be of no avail. It would involve a huge loss of time, energy and resources, which he has put in to complete up to the IVth semester specifically only with the support and sanction of the respondents. Hence, with a little more accommodation, applicant could complete the degree, instead of starting de novo, the LL.B course consequent to rejection of leave.

9. Since, a revised prayer to grant leave upto October, 2017 pursuant to the issues raised in the impugned order has come by way of prayer for interim relief, we consider it appropriate to meet the ends of justice, to direct the respondents to

consider his above prayer. The applicant shall also submit a representation within a period next two days, indicating the entire period of leave that he may require for completion of the said degree course. If the respondents are not in a position to consider the dates of leave or intermittent days of leave applied for, then the respondents shall give personal hearing to the applicant to for modifying leave sought for, in such a way that leave is permitted to the maximum extent possible to meet the requirement for completing the course, while securing his presence at Pune to discharge his duties, also, in the same spirit that the original sanction order dated 02.07.2015 was issued. A reasoned and speaking order shall be passed by R-2 alongwith a copy to R-3 and applicant. The exercise shall be completed within a period of 10 days from the date of receipt of the representation of the applicant. The applicant will be at liberty to approach the Tribunal, if his grievance still persists.

10. Accordingly, OA disposed of at admission stage. No order as to costs.

(Ms.B. Bhamathi)
Rohee)
Member (A)
(J)

(Arvind J.
Member

Amit/-