

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.383/2019

Date of Decision: 10th June, 2019

CORAM: R. VIJAYKUMAR, MEMBER (A)
RAVINDER KAUR, MEMBER (J)

Madhavi Chavan,
Wife of Manohar Chavan, aged about 55 yrs
presently working as Income Tax Officer,
Audit-II, Qureshi Mansion, Thane West
and residing at Flat No.105-106, Shivshankar
C H S Ltd., Tilak Rd, Dombivili East,
Thane, Pin – 400 604.

... ***Applicant***

(By Advocate Shri A.A. Manwani)

Versus

1. Union of India
through its Secretary
Ministry of Finance, Department of
Revenue, North Block,
New Delhi – 110 001.
2. Central Board of Direct Taxes,
Ministry of Finance, Department of
Revenue, North Block,
New Delhi – 110 001.
3. Commissioner of Income Tax,
Audit-II, Pune 12, Aayakar Bhavan,
Sadhu Vaswani, Chowk, Pune – 411 009.
4. Inquiry Officer,
Mr. Mahendra Bishnoi, JCIT,
Range 4 Thane, 6th Floor,
Akshar I T Park,
Wagle Estate, Thane West
- 400 604.

... ***Respondents***

ORDER (ORAL)

Per : Shri R. Vijaykumar, Member (A)

The applicant has filed this OA stating that charge memo has been issued to her on 27.01.2015 to which she had replied and the respondents had then appointed an Inquiry Officer to conduct the disciplinary enquiry. Learned counsel for the applicant pleads that the applicant had asked for inspection of the original documents and for transcription of certain voice recording in letter dated 25.10.2017 (Annexure A-5). The respondents have replied to her request in their letter dated 08.02.2019 (Annexure A-6) enclosing certified copies of transcriptions of voice recordings, punchnama and a copy of the complaint letter. They have informed her that the original documents form part of the chargesheet filed in the CBI Court, Thane for which learned counsel for the applicant submits that charges have been framed and hearing of evidence has already commenced in the Criminal Court and four witnesses examined. They advised her that she can seek inspection of the same during the course of trial before that Hon'ble Court. Later, the

Inquiry Officer issued notice on 16.04.2019 to various witnesses to appear and record their evidence. Learned counsel for the applicant states that the applicant did not attend this hearing and the hearing which was held on 02.05.2019 and instead, filed a letter dated 08.05.2019 (Annexure A-14) again requesting inspection of the original documents kept in the CBI Court and raising an additional aspect by way of a separate letter dated 08.05.2019 (Annexure A-15), that the evidence, witnesses and documents in both the CBI case and the disciplinary case were identical and therefore, the disciplinary enquiry should be adjourned since her defence would be disclosed if she was compelled to defend her case at the same time in the disciplinary enquiry.

2. Learned counsel for the applicant submits that no reply has been furnished by the respondents to the letter at Annexure A-15 in which the new aspect raised by the applicant has been agitated. This application was filed on 06.06.2019 and until the present moment, no reply is stated to have been received.

3. Learned counsel was enquired as to whether the applicant or her counsel had been permitted by the Criminal Court to inspect the original documents now being pursued by the applicant before the Inquiry Officer. Learned counsel denies that the Criminal Court has allowed inspection of the original documents and he was therefore, invited to file an affidavit to this effect. Considering that the proceedings before the Criminal Court have proceeded well after framing of charges and recording of evidence has also begun, such a claim needs to be validly supported and it appears incomprehensible how such a claim is being put forth. It also appears that the applicant is suggesting that she is prejudiced by lack of inspection of original documents in the departmental inquiry when a certified copy is given on the presumption that the applicant would have received this access in the criminal inquiry and hence, no prejudice is apparent. In the present circumstances, we find that the respondents have not replied to the additional specific demand of the applicant that since the

departmental proceedings have the same set of witnesses and documents considered in the criminal proceedings, the law requires the disciplinary proceedings to be stayed. It is necessary for this Tribunal to adjudicate the matter only after the respondents express their views as per law by passing a reasoned and speaking order on her request.

4. In the circumstances, the respondents are directed to pass a reasoned and speaking order on the representation dated 08.05.2019 (Annexure A-15) of the applicant within two weeks of receipt of these orders and to communicate these orders to the applicant within a week thereafter.

5. Learned counsel for the applicant prays for interim relief by way of stay on the disciplinary proceedings. At this stage of the matter, it is apparent that the applicant has herself delayed in approaching this Tribunal after the Inquiry Officer had issued a letter of notice on 16.04.2019 and made out the representation only on 08.05.2019 on the legal issue before the respondents. Further it appears that the statements of witnesses who were called on

02.05.2019 may have already been recorded and in which the applicant never participated, appeared or expressed objections. In the facts and circumstances of the matter, we are not inclined to grant any interim orders at the present stage without hearing the respondents who have, as described above, not even considered and expressed their views on the belated objection raised by the applicant.

6. In the above circumstances, this OA is disposed of with the aforesaid directions in para 5 above. No costs.

(*Ravinder Kaur*)
Member (J)

(*R.Vijaykumar*)
Member(A)

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