HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY

PRESENT

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY
AND
THE HON'BLE SRI JUSTICE K.LAKSHMAN

WRIT PETITION NO. 23324 OF 2020

Between:

1. Union of India, Represented by the Secretary, Ministry of Finance, Department of Revenue, North Block, New Delhi - 110 001.
2. The Principal Chief Commissioner of Income Tax, 10th Floor, C- Block, Income Tax Towers, 10-2-3, A.C.Guards, Masab Tank, Hyderabad - 500 004.
3. The Chief Commissioner of Income Tax, 2nd Floor, Aayakar Bhavan, Dabagardens, Visakhapatnam - 530020.
4. The Commissioner of Income Tax (TDS), 3rd Floor, SVR Plaza, Door No. 40-6-15, Sidhartha Public School Road, Moghalraipuram, Vijayawada - 520010.
5. The Administrative Officer and Drawing and Disbursing Officer, Office of the Commissioner of Income Tax (TDS), 3rd Floor, SVR Plaza, Door No. 40-6-15, Sidhartha Public School Road, Vijayawada - 520010.

...PETITIONERS

AND

T.V.P. Latha, W/o. P. Subba Rao, aged about 54 years, Group-A, Occupation: Joint Commissioner of Income Tax, TDS Range, Vijayawada, Wo. Door No. 20-3/1-20/12, Geetha Apartments, New Ayodhya Nagar, Vijayawada - 520 003

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue any writ or order or direction more particularly in the nature of writ of certiorari and to call for the records in OA 20/573/2018 on the file of the Hon'ble Central Administrative Tribunal [CAT], Hyderabad Bench, Hyderabad and to set aside the impugned order dated 14.10.2019 in OA 20/573/2018 on the file of the Hon'ble Central Administrative Tribunal [CAT], Hyderabad Bench, Hyderabad.

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of the impugned order dated 14.10.2019 in OA 20/573/2018 on the file of the Hon'ble Central Administrative Tribunal [CAT], Hyderabad Bench, Hyderabad.

Counsel for the Petitioners: SRI B. NARASIMHA SARMA,
S.C. FOR INCOME TAX DEPARTMENT

Counsel for the Respondents: --

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY
AND
THE HONOURABLE SRI JUSTICE K. LAKSHMAN

Writ Petition No.23324 of 2020

ORDER: *(Per Sri Justice A. Rajasheker Reddy)*

This writ petition is filed against the order dated 14.10.2019 passed in O.A.NO.20/573/2018 on the file of the Central Administrative Tribunal, Hyderabad Bench, Hyderabad, wherein and whereby the Original Application filed by the respondent was allowed by setting aside the recovery proceedings dated 25.01.2018, initiated against her on the ground that she was erroneously granted increments in the year 2006.

2. Sri B. Narasimha Sharma, learned Standing Counsel for the petitioners, submits that any amount erroneously granted to the employee can be recovered and admittedly, there is no dispute that the increments were granted to the respondent erroneously and recovery of the same after issuance of show cause notice cannot be faulted.

3. In the present case, it is to be seen that the increments were granted to the respondent in the year 2006 and she retired voluntarily from service during pendency of O.A., and that a show cause notice was issued on 27.12.2017 for recovery of the amount said to have been granted to the respondent erroneously and recovery proceedings were issued on 25.01.2018, which was impugned in the O.A., before the Tribunal. The Tribunal, by following the judgments of the Supreme Court in **State of Punjab and others v. Rafiq Masih (White Washer)** (Civil Appeal No.11527 of 2014 dated 18.12.2014); **A.K.Lakshmipathy v. Rai Saheb Pannalal H. Lahoti Charitable Trust**[i]; **Rekha Mukherjee v. Ashis Kumar Das**[ii]; and **Nirmal Chandra Bhattacharjee v. Union of India**[iii], and also by referring to the judgments of the Supreme Court in **Union of India v. Sadhana Khanna** (C.A.No.8208 of 2001); **M.V.Thimmaiah v. UPSC** (C.A.No.5883-5991 of 2007 dated 13.12.2007, allowed the O.A., holding

that the petitioners granted increments erroneously to the respondent and there is no fault on her part and that even, there was a delay of 10 years for taking steps for recovery of the amounts drawn by her and as such, the Tribunal has rightly discussed and passed a reasoned order.

4. In view of the above, we are of the view that this is not a fit case to exercise our extraordinary equitable jurisdiction and to interdict the order passed by the Tribunal and we do not find any merit in the writ petition.

5. Accordingly, the Writ Petition is dismissed. No order as to costs.

6. Miscellaneous petitions, if any, pending in this writ petition shall stand dismissed.

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[i] (2010)1 SCC 287
[ii] (2005) 3 SCC 427
[iii] 1991 Supp(2) SCC 363

SD/-K.ONESIM
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,
1. One CC to Sri B. Narasimha Sarma, S.C. for Income Tax Deptartment [OPUC]
2. Two CD Copies.

MP

HIGH COURT

DATED:31/12/2020

ORDER

WP.No.23324 of 2020

DISMISSING THE WRIT PETITION
WITHOUT COSTS

AJM 3
11/1/2021