

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 9972 OF 2019

Mrs. Vandana w/o Sanjeev Kamble ... Petitioner
Versus
The Union of India and Ors. ... Respondents

**WITH
WRIT PETITION NO. 8393 OF 2019
WITH
CIVIL APPLICATION NO. 2305 OF 2019
WITH
CIVIL APPLICATION NO. 1809 OF 2019
WITH
INTERIM APPLICATION NO. 1418 OF 2020
IN
WRIT PETITION NO. 8393 OF 2019**

Smt. Pramila Bharat Chaudhary @
Pramila Bhowate and Ors. ... Petitioners
Versus
The Union of India and Ors. ... Respondents

**WITH
WRIT PETITION NO. 8056 OF 2019
WITH
CIVIL APPLICATION NO. 2306 OF 2019
WITH
CIVIL APPLICATION NO. 2307 OF 2019
IN
WRIT PETITION NO. 8056 OF 2019**

Naresh s/o. Shankarrao Khapare and Anr. ... Petitioners
Versus
The Union of India and Ors. ... Respondents

Mr. Avinath Salve, for the Petitioner in Writ Petition
No. 9972 of 2019.

Mr. N. V. Bandiwadekar a/w Mr. Vinayak Kumbhar

i/b Ms. Ashwini Bandiwadekar, for the Petitioners in Writ Petition No.8056 of 2019.

Mr. Rui Rodrigues a/w Mr. Shailesh Pathak, for Respondent Nos. 1-UI in Writ Petition No. 8056 of 2019, Writ Petition No. 8393 of 2019 and Writ Petition No. 9972 of 2019.

**CORAM: DIPANKAR DATTA, CJ &
V. G. BISHT, J.**

DATE : APRIL 27, 2022

P.C.:

WRIT PETITION NO. 9972 OF 2019

1. The petitioner is aggrieved by office orders dated 22nd March, 2019 and 31st July, 2019 passed by the respondents. By the former order the petitioner along with others was reverted from the post of Income Tax Inspector to the post of Income Tax Officer, with immediate effect. The latter order gave her posting as Income Tax Officer.

2. It is undisputed that these two office orders were issued in compliance with the judgment and order dated 10th July, 2019 passed by the Central Administrative Tribunal, Mumbai Bench, Mumbai (hereafter "the Tribunal", for short) while disposing of Original Application No. 209 of 2019. The grievance raised by the petitioner is that she was not a respondent in the proceedings before the Tribunal arising out of Original Application No. 209 of 2019 and, therefore, an order has been passed behind her back which is prejudicial to her interest. Accordingly, she has prayed for quashing of the

order passed by the Tribunal in Original Application No. 209 of 2019 as well as the office orders referred to above.

3. In view of the decisions of the Supreme Court reported in (1997) 6 SCC 473 (**K. Ajit Babu and Ors. vs. Union of India and Ors.** and (2007) 14 SCC 54 (**Rama Rao vs. M. G. Maheshwara Rao & Ors.**), the petitioner has a remedy before the Tribunal in an original application under section 19 of the Administrative Tribunals Act, 1985. In **Rama Rao** (supra), the Supreme Court affirmed the findings of the relevant High Court in the following words:

“The High Court referred to the decision in K. Ajit Babu and others vs. Union of India and others [(1997) Supp 3 S.C.R. 56] to find that the proper procedure to adopt by persons situated like the Assistants in this case and who were not made parties to a prior decision which had effect on their career, was to move an application under Section 19 of the Act. In that decision, this Court noticed that even though the judgment of an Administrative Tribunal may only be a judgment in personam, occasionally, it could also operate as a judgment in rem and those affected by it had the right to approach the Tribunal again with an application under Section 19 of the Act when they are affected as a consequence of the earlier decision and are entitled to seek reconsideration of the view taken in the earlier decision. The High Court, following it, held that the assistants had the locus standi to move the application under Section 19 of the Act before the Tribunal and seek reconsideration of the earlier decision passed by it without notice to them and to show that the said order required reconsidered or that it was not a legal or a proper one. We see no reason not to accept the reasoning adopted by the High Court. After all, the assistants who were not impleaded in the earlier proceeding, must have an avenue to ventilate their grievances. This Court has indicated that that avenue is an approach to the Tribunal and that was in a case in which the very same Act was involved. This Court had also pointed out, what the Administrative Tribunal could do in such a situation. If this were not the position, the assistants would be able to say that since they were not parties to the earlier proceedings, they were not bound by it and they are entitled to ignore the decision therein and that the said

decision cannot affect them since it would be a decision that is void in law for non-compliance with the rules of natural justice. There is, therefore, no grace in the submissions that the assistants could not have approached the Administrative Tribunal with their grievance and the Tribunal could not have consider their grievance or gone back on its earlier decision. We are in agreement with the approach made by the High Court and the conclusion arrived at by it and hence have no hesitation in overruling this contention.”

4. In such view of the matter, this writ petition is disposed of by reserving the liberty of the petitioner to move the Tribunal in accordance with law. No costs.

5. All contentions are kept open.

6. Since this writ petition has been pending from 6th August, 2019, the Tribunal may consider the application for condonation of delay, if any, filed by the petitioner bearing in mind section 14 of the Limitation Act, 1963.

WRIT PETITION NO. 8393 OF 2019 AND OTHER APPLICATIONS

The petitioner appears in person and submits that her counsel is indisposed. In that view of the matter, list this writ petition on **15th June, 2022.**

WRIT PETITION NO. 8056 OF 2019 AND OTHER APPLICATIONS

1. List this writ petition on **15th June, 2022.**

2. Learned Counsel for the petitioners to bring on record the order under challenge.

(V. G. BISHT, J.)

(CHIEF JUSTICE)