

PETITIONER:
SECRETARY TO GOVERNMENT, PROHIBITION & EXCISE DEPARTMENT

Vs.

RESPONDENT:
L. SRINIVASAN

DATE OF JUDGMENT: 15/02/1996

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
G.B. PATTANAIK (J)

CITATION:
1996 SCC (3) 157 JT 1996 (3) 202
1996 SCALE (2) 411

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

Leave granted.

We have heard the counsel on both sides.

Order dated November 12, 1993 in O.A. No.1702/93 and 2206/93 of the Tamil Nadu Administrative Tribunal, Madras is in question before us. The respondent while working as Assistant Section Officer, Home, Prohibition and Excise Department had been placed under suspension. Departmental inquiry is in process. We are informed that charge sheet was laid for prosecution for the offences of embezzlement and fabrication of false records etc. and that the offences and the trial of the case is pending. The Tribunal had set aside the departmental enquiry and quashed the charge on the ground of delay in initiation of disciplinary proceedings. In the nature of the charges, it would take long time to detect embezzlement and fabrication of false records which should be done in secrecy. It is not necessary to go into the merits and record any finding on the charge levelled against the charged officer since any finding recorded by this Court would gravely prejudice the case of the parties at the enquiry and also at the trial. Therefore, we desist from expressing any opinion on merit or recording any of the contentions raised by the counsel on either side. Suffice it to state that the Administrative Tribunal has committed grossest error in its exercise of the judicial review. The member of the Administrative Tribunal appear to have no knowledge of the jurisprudence of the service law and exercised power as if he is an appellate forum de hors the limitation of judicial review. This is one such instance where a member had exceeded his power of judicial review in quashing the suspension order and charges even at the threshold. We are coming across frequently such orders putting heavy pressure on this Court to examine each case in detail. It is high time that it is remedied.

The appeal are accordingly allowed and the order of the

Tribunal is set aside. The controversy is at large the disciplinary authority would be free to proceed with the enquiry and trial also be proceeded in accordance with law. No costs.

JUDIS