

SECRETARY TO GOVERNMENT, PROHIBITION AND
EXCISE DEPARTMENT

A

v.

L. SRINIVASAN

FEBRUARY 15, 1996

B

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

Service Law :

Departmental inquiry against employee for embezzlement and fabrication of false records—Charge-sheet laid for prosecution—Trial of the case pending—State Administrative Tribunal setting aside departmental inquiry and quashing the charge on the ground of delay in initiation of disciplinary proceedings—Held; In the nature of the charges, it would take long time to detect embezzlement and fabrication of false records which would be done in secrecy—No opinion on merits expressed—Tribunal committed grossest error—Exceeded power of judicial review in quashing the suspension order and charges even at the threshold—Such order putting heavy pressure on Supreme Court to examine each case in detail and it is to be remedied.

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CIVIL APPELLATE JURISDICTION : Civil Appeal Nos.3658-59
OF 1996.

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From the Judgment and Order dated 12.11.93 of the Tamil Nadu Administration Tribunal at Madras in O.A. No. 1702/93 and 2206 of 1993.

Ms. A. Subhashini for the Appellants.

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V. Ramasubramanian and V. Balachandran for Respondents.

The following Order of the Court was delivered :

Leave granted.

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We have heard the counsel on both side.

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.

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- A 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 initiation of disciplinary proceedings. In the nature of the charges, it would take long time to detect embezzlement and fabrication of false record 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 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.
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- E The appeals 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.

G.N.

Appeals allowed.