

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

M.A.No. 1768/2003, M.A.No.1769/2003 &
C.P.No.234/2003 in O.A.No.3102/2002

Wednesday, this the 24th day of September, 2003

Hon'ble Mrs. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Mr. V.K. Majotra, Member (A)

Sanjay Kumar Chauhan
House No.G-31, Sector-56
Noida, Gautam Budh Nagar, UP

..Petitioner

(By Advocate: Shri Vishwajit Singh)

Versus

1. Sri C.L. Mahar
Additional Commissioner (Customs)
Inquiry Officer, ICD Tuglakabad
New Delhi
2. Dr. Vinayak Prasad
The Additional Commissioner (P&V)
Central Excise Commissionerate
Delhi-I
3. Rajendra Prakash
The Commissioner of Central Excise
Central Excise Commissionerate
Delhi-I
4. A.K.Raha
The Commissioner of Customs
Inland container Depot
Tughlakabad, New Delhi

..Respondents

(By Advocate: Shri R.N.Singh, learned proxy counsel
for Shri R.V.Sinha, learned counsel)

O R D E R (ORAL)

Hon'ble Mrs. Lakshmi Swaminathan, VC (J):-

MA-1768/2003 and MA-1769/2003

Heard the learned counsel for the parties in the
MAS.

2. The above MAS have been filed by the original respondents in OA-3102/2002, one praying for condonation of delay in filing the accompanying MA which seeks extension of time for complying with the orders of the Tribunal dated 27.11.2002. In the reply filed by the original applicant to the MAS, he has submitted, inter

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alia, that there is only one witness, who has already been heard in the Departmental inquiry on 13.5.2003. Shri Vishwajit Singh, learned counsel has submitted that the inquiry initiated against the applicant is only against him and the respondents are merely trying to confuse the issue by stating that other officers, namely, Groups 'A', 'B', etc. are involved in the matter. He has clarified that the applicant is a Group 'C' Non-Gazetted officer and his disciplinary authority is the Additional Commissioner (P&V), Central Excise, Delhi-1 and not any other higher officer, who may be the disciplinary authority for other Groups ~'A' & 'B' officers, with which the applicant is not concerned. He has further submitted that as the sole witness in the Departmental proceedings against the applicant has already been heard and the matter ~~was~~ ^{is} now fixed for arguments, the respondents ought to have completed the inquiry well within time. Accordingly, he has prayed that these MAs may be dismissed.

3. On the other hand, Shri R.N.Singh, learned proxy counsel has highlighted the averments made by the applicant in MA-1768/2003. According to him, photo-copies of documents which have now been traced by the Department as late as on 8.8.2003 and 13.8.2003 have to be made out and given to the charged officer and so on, which requires at least one month. He further submits that he has been instructed by the Department to mention that on 18.9.2003, the originals of the documents have been inspected by the applicant.

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4. We have carefully considered the pleadings and the submissions made by the learned counsel for parties. Although We do find ~~merit~~ ^{merit} in what Shri Vishwajit Singh, learned counsel mentioned that there has been considerable delay on the part of the respondents in completing the Departmental inquiry proceedings initiated against the applicant vide the charge issued on 20.9.2002. However, we take into account the Tribunal's order dated 27.11.2002 wherein directions have been given that the inquiry proceedings should be completed in the pending inquiry within five months of the appointment of the inquiry officer, who was directed to be appointed in turn within one month. The appointment of inquiry officer has been done within time but there is no doubt at all that the respondents have not implemented the second part of the directions of the Tribunal.

5. However, taking into account the nature of the charge, directions of the Tribunal and the present stage of the Departmental inquiry proceedings, we consider it appropriate to allow MA-1769/2003 in the interest of justice. For the same reasons, we also partly allow MA-1768/2003 granting the respondents time upto 30.11.2003 to complete the pending Departmental inquiry proceedings in accordance with law. Needless to say that the applicant should also cooperate with the disciplinary authority to complete the proceedings within the aforesaid time.

6. Accordingly, MA-1768/2003 and MA-1769/2003 are disposed of.

Yours

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CP-234/2003

In view of the above orders passed in MA-1768/2003 and MA-1769/2003 disposing of those MAs, we do not consider it necessary to keep CP-234/2003 on board at this stage. That CP is accordingly disposed of. File to be consigned to the record room.

V.K.Majotra

(V.K.Majotra)
Member (A)

Lakshmi Swaminathan

(Mrs. Lakshmi Swaminathan)
Vice Chairman (J)

/sunil/