

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH : NEW DELHI

OA No.1632/2002

Date of decision: 17.07.2002

Sandeep Prakash

Applicant

(By Advocate: Shri Rajiv K. Garg)

versus

UOI & Another

Respondents

(By Advocate: Shri R.V.Sinha)

CORAM:

The Hon'ble Shri M.P. Singh, Member(A)

The Hon'ble Shri Shanker Raju, Member(A)

1. To be referred to the reporter or not? Yes
2. Whether it needs to be circulated to other Benches of the Tribunal?


(M.P. Singh)
Member (A)

X

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1632/2002

New Delhi, this the 17th day of July, 2002

Hon'ble Shri M.P. Singh, Member(A)
Hon'ble Shri Shanker Raju, Member(J)

Sandeep Prakash
Deputy Director
Dte. of Inspection, Customs
& Central Excise, 5th Floor
D Block, IP Estate, New Delhi .. Applicant

(By Shri Rajiv K. Garg, Advocate)

versus

1. Secretary
Department of Revenue
Ministry of Finance
North Block, New Delhi
2. Chairman
Central Board of Excise & Customs
Ministry of Finance
North Block, New Delhi .. Respondents

(Shri R.V. Sinha, Advocate)

ORDER(oral)

Shri M.P. Singh, Member(A)

Applicant had earlier filed OA No.900/2001 seeking directions to Central Vigilance Commission (CVC, for short) to obtain comments of Central Board of Excise & Customs, New Delhi on his representation of 16.2.2001 before submitting its final recommendations regarding institution of disciplinary proceedings against him. As no decision had been taken by the respondents to initiate disciplinary proceedings against the applicant, that OA was summarily rejected by the Tribunal vide its order 12.4.2001 with the observation that the applicant had approached the Tribunal at an interlocutory and premature stage.



2. He has again approached this Tribunal on the apprehension that disciplinary authority (DA, for short) may further proceed with some disciplinary proceeding against him on account of malafide reasons. He has not impugned any order passed by the respondents by which he is aggrieved. It is his contention that the DA by an order passed on 6.4.2002 had dropped disciplinary proceedings/charges/allegations against him and therefore DA should not be allowed to contemplate second disciplinary proceedings on the same charges and that respondents should not be allowed to process the complaints received against him.

3. On the other hand, respondents have stated in their reply that no order has been passed by them for initiation of disciplinary proceedings against the applicant. They have further submitted that the competent authority has not taken any final decision in the matter of misconduct committed by the applicant and the said authority will decide the issue only in accordance with the relevant rules and instructions on the subject. The OA is therefore misconceived, misleading, premature, based on surmises, conjecture and without any cause of action and thus not maintainable under the provisions of Section 19 read with Section 20 of AT Act, 1985 as well as in view of various decision of the apex court on the point.



4. We are in full agreement with the submissions made by the respondents and we hold that the applicant has approached this Tribunal with apprehensions and surmises and at a pre-mature stage. It is a well settled legal position that the court or the Tribunal should not interfere at the interlocutory stage. Normally, it is only after the DA has taken a decision to inquire into the misconduct of a Government servant and has passed an order after holding inquiry in accordance with the law and rules that a Government servant can challenge the same if he feels aggrieved by such order. In this case, the applicant seeks the judicial interference even at the stage when certain complaints received against him are being processed by the DA. This is certainly beyond the scope of judicial review and is therefore not maintainable. That apart, we cannot issue any directions restraining respondents not to process the complaints, if any, received against the applicant.

5. On our direction, respondents have furnished the original record relating to the complaints received against the applicant and we find that these are still being processed and no final decision has yet been taken by the respondents to institute disciplinary proceedings against the applicant nor any order has yet been passed by them. In view of this position, we cannot pass any order in the present OA at this stage.

6. Therefore, for the reasons recorded above, we find no merit in the present OA and the same is accordingly dismissed.



7. Although the DA is processing the complaints received against the applicant in accordance with rules and instructions and in consultation with the concerned authorities including CVC, the applicant in the meantime has approached this Tribunal twice which in our considered view is a misuse of legal process. We therefore impose a cost of Rs.5000/- (Rupees five thousand) on the applicant to be paid to the respondents within one month from the date of receipt of a copy of this order.

S. Raju

(Shanker Raju)
Member(J)

M.P.Singh

(M.P. Singh)
Member(A)

/gtv/