

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/20/482/2014

HYDERABAD, this the 20TH DAY OF JANUARY 2020

Hon'ble Mr. ASHISH KALIA, MEMBER (J)

Hon'ble Mr. B.V. SUDHAKAR, MEMBER (A)

C SIMEON,
S/o C Israel,
Aged 62 years,
Occ: Retd. Assistant Commissioner of
Customs and Central Excise Department,
R/o Flat No.504, Ranga Prasad Enclave,
Vinayak Nagar, Gachibowli,
Hyderabad 500 032.

... Applicant



(By advocate: Mr. N Vijay)

Vs.

1. Government of India, Ministry of Finance,
Department of Revenue, 6th Floor,
HUDCO Vishala Building, Bhikaji Cama Place,
New Delhi, rep. by its Under Secretary,
2. Central Board of Customs and Central Excise,
North Block, New Delhi, Rep. by its Chairman
and Special Secretary,
3. Chief Commissioner, Customs and Central Excise Dept.,
Hyderabad Zone, Kendriya Shulk Bhavan,
Basheerbagh, Hyderabad.

Respondents

(By advocate: Mrs. L Pranathi Reddy, Addl. CGSC)

ORAL ORDER

PER HON'BLE Mr. **ASHISH KALIA, MEMBER (J)**

Applicant has filed this OA under section 19 of the Administrative Tribunals Act, 1985 praying for the following relief(s):

“To declare the Order No.08/2013 dated 03.04.2013 passed by Respondent No.1 imposing punishment of withholding of 50% of monthly pension for a period of 5 years of applicant as illegal, arbitrary, disproportionate, perverse and not based on any admissible evidence and consequently quash the same.”

2. Applicant, after his retirement as Assistant Commissioner of Customs and Central Excise, was proceeded against under Rule 14 of CCS (CCA) Rules, 1965 vide impugned order dated 03.04.2013 and has been imposed the penalty of withholding of 50% of monthly pension, as otherwise admissible, for a period of five years. The same is challenged on the ground that the punishment of withholding 50% of pension was introduced in the statute in 2012 only and in the present case, the charge memo was issued on 21.10.2005 and the inquiry report was submitted on 27.02.2008 and there was delay in concluding the disciplinary inquiry by passing the impugned order on 03.04.2013.

3. Respondents have filed reply statement stating that Rule 9(1) of Pension Rules governs the imposition of penalties after retirement of

the Government servant, and it clearly does not specify any percentage cut in pension as one of the penalties nor there is any clarity regarding the statute referred to by the applicant.

4. We heard Mr. N.Vijay, learned counsel for the applicant and Ms. L.Pranathi Reddy, learned standing counsel for the respondents.

5. Learned counsel for the applicant has drawn our attention to the fact that the applicant was given an additional charge to the post and all that has been put on his shoulder while punishing him with the penalty stated herein above. He has also handed over a copy of the order passed in respect of one Mr. K.Dharma Raju, Superintendent of Central Excise, Srikakulam Range, who is the officer in place of whom the applicant was given additional charge, wherein the disciplinary authority has taken a view that ,

“5. In the light of the observations and findings, as discussed above, and after taking into account all other aspects relevant to the case, the Commission note that the Article of Charge-1 leveled against the CO is proved and consider that the ends of justice would be met in this case if the penalty of withholding of 10% in monthly pension for a period of one year is imposed on the CO. His gratuity, if not otherwise required to be withheld in any other case, may be paid to him. They advise accordingly.”

6. Learned counsel for the applicant submits that there cannot be two different penalties on the same charge, particularly against the same company where the loss has been caused to the department.

7. We are fully convinced with the argument advanced by the learned counsel for the applicant and we are of the view that the penalty order against the applicant is not sustainable in the eyes of law.

8. Accordingly, we modify the penalty to that of withholding of 10% in monthly pension for a period of one year. The gratuity, if not otherwise required to be withheld in any other case, may be paid to the applicant.

9. Time for compliance is 90 days from the date of receipt of a copy of this order.

10. OA is accordingly disposed of.

11. There shall be no order as to costs.



(B V SUDHAKAR)
MEMBER (A)

(ASHISH KALIA)
MEMBER (J)

vsn