



CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA

Date of order : 24.01.2020

**Coram : Hon'ble Mrs. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member**

O.A.350/1649 of 2014 - Amitava Bandyopadhyay
O.A.350/663/2015 - Subrata Debnath

- V E R S U S -

1. The Union of India, service through the Secretary, Ministry of Finance, Department of Revenue, Government of India, North Block, New Delhi-110 001;
2. The Chairman, Central Board of Excise & Customs, North Block, New Delhi-110 001;
3. The Member(Personnel), Central Board of Excise & Customs, North Block, New Delhi-110 001;
4. The Chief Commissioner of Customs, Calcutta Zone & Appellate Authority, Customs House, 15/1. Strand Road, Calcutta-700 001;
5. The Commissioner of Customs(Administration) & Disciplinary Authority, Customs House, 15/1 Strand Road, Calcutta-700 001.

O.A.350/1213/2014 - Swapan Kumar Majumdar

- V E R S U S -

1. The Union of India, service through the Secretary, Ministry of Finance, Department of Revenue, Government of India, North Block, New Delhi-110 001;
2. The Chairman, Central Board of Excise & Customs, North Block, New Delhi-110 001;
3. The Member(Personnel), Central Board of Excise & Customs, North Block, New Delhi-110 001;



4. The Chief Commissioner of Customs, Calcutta Zone & Appellate Authority, Customs House, 15/1. Strand Road, Calcutta-700 001;
5. The Commissioner of Customs(Administration) & Disciplinary Authority, Customs House, 15/1 Strand Road, Calcutta-700 001;
6. The Joint/Additional Commissioner of Customs (Vigilance), Customs House, 15/1 Strand Road, Calcutta – 700 001.

O.A.350/1414/2014 - Ravindra Nath Mishra

- V E R S U S -

1. Union of India, service through the Secretary, Ministry of Finance, Department of Revenue, Room No.46, North Block, New Delhi-110001;
2. The Chairman, Central Board of Excise & Customs, North Block, New Delhi-110001;
3. Chief Commissioner of Customs, Kolkata Zone, 15/1 Strand Road, Customs House, Kolkata – 700001;
4. Commissioner of Customs, Airport & Administration, 15/1 Strand Road, Customs House, Kolkata-700001;
5. Director, Central Vigilance Commission, Satarkta Bhawan, G.P.O. Complex, Block-A, INA, New Delhi – 110023.

O.A.350/1413/2014 - Praveen Kumar Agarwal
 O.A.350/1416/2014 - D.D. Singh Nag
 O.A.350/1419/2014 - Nani Gopal Dey
 O.A.350/1420/2014 - Barun Ray

- V E R S U S -

1. The Union of India, service through the Secretary, Ministry of Finance, Department of Revenue, Room No.46 , North Block, New Delhi-110 001;



2. The Chairman, Central Board of Excise & Customs, North Block, New Delhi-110 001;
3. The Chief Commissioner of Customs, Kolkata Zone, Customs House, 15/1. StrandRoad, Kolkata-700 001;
4. The Commissioner of Customs, Airport & Administration, Customs House, 15/1 Strand Road, Kolkata-700 001;
5. Joint Commissioner of Customs(Vigilance), Customs House, 15/1 Strand Road, Kolkata – 700 001.

For the applicants : Mr. M.P. Dixit, counsel
Mr. A.K. Khan, counsel

For the respondents : Mr. A. Roy, counsel
Ms. A. Rajyashree, counsel

ORDER

Bidisha Banerjee, Judicial Member

The original applications were heard analogously and considered for disposal with this common order since all the applicants were proceeded against identically in a common departmental proceeding, but the proceedings culminated against 28 similarly circumstanced employees into diverse orders of either total exoneration or part exoneration and even minor penalty orders etc. which according to the applicants suffer from vice of discrimination, malice in law and malice in fact.

2. For convenience the facts of O.A.No.350/1649/2014 are delineated from the rest and is discussed hereinbelow:-



3. It is evident that in regard to Amitava Bandyopadhyay, applicant in O.A.No.350/1649/2014 , after the Enquiry Officer's report on 25.08.2010 the Disciplinary Authority examined each and every articles of charge, reply of the applicant and other relevant documents and came to the conclusion that charges levelled against the officer could not be sustained. He, therefore, forwarded his views to the CVC on 18.04.2012 for a 2nd stage advice, but on the CVO/CVC's advice imposed a penalty of reducing the applicants' pay by four stages for a period of six months vide order dated 29.04.2013. The Appellate Authority by order dated 12.09.2013 reduced punishment of reduction of pay from four stages to two stages whereas the Appellate Authority in case of applicant in O.A.No.350/1413/2014 reduced the pay of the applicant by one stage for a period of three months.

4. Ld. counsel for the applicants has drawn our attention to the appellate orders passed in case of Mr. U.B. Mukherjee and Mr. S. Nithyanandam who were fully exonerated of all the charges despite CVC's advice to impose major penalty against them and citing the orders prayed for similar order. He relied upon the following decisions:-

(a) (1991)3 Supreme Court Cases 219[Nagraj Shivarao Karjagi vs. Syndicate Bank, Head Office, Manipal and Another;

(b) (1996)32 Administrative Tribunals Cases 404 [B.C. Tiwari vs. Union of India & Others];

(c) (2013)1 Supreme Court Cases (L&S) 476[Rajendra Yadav vs. State of Madhya Pradesh and Others] wherein it was held that "parity among co-delinquents needs to be maintained while imposing punishment. Further held, punishment should not be disproportionate



while comparing involvement of co-delinquents who are parties to same transaction or incident."

(d) Order dated 28.10.2014 of Central Administrative Tribunal, Principal Bench in O.A.No.3730/2013[Rajeev Kapoor vs. Union of India & Others].

5. Ld. counsel for the respondents very fairly admitted that although identically charged with, different punishments were meted out to the applicants on the advice of the CVC. The Appellate Authorities either reduced the punishments or completely exonerated them of the charges.

6. In view of the decisions cited above and having noticed that parity among co-delinquents needs to be maintained while imposing punishment and there cannot be any disproportionate punishment while comparing involvements of co-delinquents who are parties to the same transaction or incident, we quash the Disciplinary Authority's order dated 29.04.2013 and appellate order dated 12.09.2013(issued on 18.12.2013) in case of applicant in O.A.No.350/1649/2014 and remand the matters back to the Appellate Authority to issue appropriate order on par with Shri S. Nithyanandam and Mr. U.B. Mukherjee.

7. Similarly the following punishment orders and appellate orders are quashed:-

<u>O.A.No.</u>	<u>Disciplinary Authority's order</u>	<u>Appellate order</u>
O.A.350/663/2015	dated 04.04.2013	dated 23.09.2013 (issued on 24.04.2014)
O.A.350/1213/2014	dated 27.05.2013	dated 22.05.2014 (issued on 23.06.2014)
O.A.350/1413/2014	dated 11.03.2013	dated 12.09.2013 (issued on 24.04.2014)

O.A.350/1414/2014	dated 29.07.2013	dated 25.02.2014 (issued on 19.03.2014)
O.A.350/1416/2014	dated 22.03.2013	dated 12.09.2013 (issued on 04.03.2014)
O.A.350/1419/2014	dated 27.05.2013	dated 23.09.2013 (issued on 04.03.2014)
O.A.350/1420/2014	dated 16.05.2013	dated 23.09.2013 (issued on 04.03.2014)

All these matters are remanded back to the Appellate Authority to issue appropriate orders on par with Shri S. Nithyanandam and Mr. U.B. Mukherjee.

8. Accordingly the O.As stand disposed of. No order as to costs.



(Dr. Nandita Chatterjee)
Administrative Member
sb

(Bidisha Banerjee)
Judicial Member