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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2435/2001

New Delhi, this the 12th day of September, 2002

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

Krishna Kumar
C-4/408, Janakpuri
New Delhi .. Applicant

(Shri Jog Singh, Advocate)

versus

Union of India,

1. Secretary
Department of Revenue
Ministry of Finance, New Delhi
2. Commissioner of Custom (General)
New Customs House
Ballard Estate, Mumbai
3. Member (Personnel)
Central Board of Excise & Customs
Ministry of Finance, New Delhi
4. Additional Commissioner of Customs/
Joint Commissioner of Customs (P&V)
New Customs House, Mumbai .. Respondents

(Shri R.V. Sinha, Advocate)

ORDER

Shri M.P. Singh, Member (A)

By an order dated 11.5.99 passed by the disciplinary authority, the applicant was removed from service on the charge that "he did not write the Inspector of Central Excise, Income Tax etc. examination 1989 on 20.8.89 conducted by the Staff Selection Commission; he arranged somebody also to write the said examination on his behalf and in his place".

2. Admitted facts of the case are that on receipt of a specific complaint by the respondents that the applicant did not write the aforesaid examination held on 20.8.89 conducted by SSC and that some one else impersonated and

wrote the said examination on applicant's behalf, (18) investigations were conducted by the respondent-department. It was revealed that the applicant did not participate in the said exam on 20.8.89 but only attended the interview held on 19.3.90. Prior to that on the basis of the results of the said examination, the applicant was sponsored as the successful candidate for appointment as Examiner by SSC and he was appointed as such in Madras Custom House on 8.10.90 and he was subsequently transferred to Mumbai Customs House on 22.12.91.

3. The case of the applicant was referred to Forensic Science Department by the respondents, which vide its report dated 7.10.92 confirmed that the signatures on admission certificate for written examination held on 20.8.89 were not that of the applicant. Based on this report, disciplinary proceedings under Rule 14 of the CCS(CCA) Rules, 1965 were initiated against the applicant and a charge memo dated 18.6.96 was issued to him alleging that the applicant failed to maintain absolute integrity and contravened provisions of Rule 3(I)(ii) and (iii) of CCS(Conduct) Rules, 1964. Thereafter, enquiry proceedings were conducted wherein the charge was held proved and the disciplinary authority, after taking into consideration the findings of Inquiry Officer as also the other evidence on record, imposed the punishment of removal from service on the applicant vide its order dated 11.5.99. Applicant's appeal and revision petition were rejected by the appellate/revisional authorities vide orders dated 7.9.99 and 30.5.2001.

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4. We have heard the learned counsel for both the parties and perused the records. (19)

5. During the course of the arguments, the learned counsel for the applicant has taken a variety of grounds in support of the reliefs sought for by the applicant inasmuch as the applicant was not given any opportunity to explain his case, the IO failed to perform his duties in an unbiased and fair manner and that the findings of the IO are based on surmises and conjectures.

6. We have gone through the enquiry proceedings and we are satisfied with the same. We find that the applicant was given proper chance and opportunity to submit his defence and the respondents have observed the principles of natural justice. Both the disciplinary and appellate authorities and the revisional authority have passed speaking and detailed orders in accordance with law after considering the facts, evidence and due application of mind and these orders do not suffer from any infirmity and warrant no intervention by the Tribunal. Therefore, the above grounds taken by the applicant are not tenable and deserve to be rejected.

7. The learned counsel for the applicant next contended that no decision can be arrived at on the strength of opinion of handwriting expert alone. In this connection, he has relied upon the judgement of Delhi High Court dated 7.8.1998 in CWF No.2265/96 (Lalit Popli Vs. UOI, 75(1998) Delhi Law Times 269). However, a perusal of the aforesaid judgement reveals that this was a case of withdrawal of huge amounts from the Bank by the petitioner therein by putting account holders'

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signatures. The High Court in that case has held the view that the so called hand writing expert was not at all a qualified person. In the present case, the fact of impersonation on behalf of the applicant has been proved by IO after examining reports of Shri Kasi, the Forensic Expert, Forensic Science Department, Government of Tamil Nadu, Madras. Therefore the judgement in the case of Lalit Popli (supra) would not help the applicant. It is a settled legal position that it is not the function of the Tribunal to make roving enquiries into disputed matters of facts and into findings based on unsubstantiated records (see Hanswani & Ors. Vs. State of Tamil Nadu, 1994 SCC (L&S) 1277).

8. In the result, for the reasons discussed above, we find no merit in the present OA and the same is accordingly dismissed. No costs.

S. Rajm

(Shanker Singh)
Member(J)

M.P. Singh

(M.P. Singh)
Member (A)

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