

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

C.P. No.113 OF 2003
IN
O.A. No.2457 OF 2001

New Delhi, this the 24th day of June, 2003

HON'BLE SMT. LAKSHMI SWAMINATHAN, VICE CHAIRMAN (J)
HON'BLE SHRI R.K. UPADHYAYA, MEMBER (A)

Vimal Kumar
Ex. Superintendent
Central Excise & Customs Commission,
Meerut II,
R/o SI-61, Shastri Nagar,
Ghaziabad (U.P.).

....Petitioner

(By Advocate : Shri D.R. Gupta)

Versus

1. Shri Rajiv Rai,
The Deputy Secretary,
Ministry of Finance,
Deptt. of Revenue,
C.B.E.C (AD.V),
Jeevan Deep Building,
Parliament Street, New Delhi.
2. Shri Harjender Singh,
Commissioner,
Central Excise, Meerut-I,
Mangal Pandey Nagar,
Meerut (U.P.).

.....Respondents

(By Advocate : Shri R.V. Sinha)

ORDER (ORAL)

HON'BLE SMT. LAKSHMI SWAMINATHAN, VICE CHAIRMAN (J):

Heard both the learned counsel for the parties.

2. Our attention has been drawn to the orders issued by the respondents on 28.5.2003. Shri R.V. Sinha, learned counsel for respondents has submitted a compliance affidavit on behalf of the respondents with a copy ^{to} the opposite side, which is taken on record. Similarly, Shri D.R. Gupta, learned counsel for petitioner has also submitted an affidavit with a copy

6

(2)

to the opposite side dated 24.6.2003, which is also taken on record.

3. Shri D.R. Gupta, learned counsel has relied upon the decision of the Hon'ble Supreme Court in Mahender Singh Vs. Union of India and Another (1991 Supp. (2) SCC 127) (Annexure 'B' to the aforesaid affidavit). He has contended that the respondents have totally disobeyed the Tribunal's order dated 3.8.2002 in OA 2457/2001 as the petitioner has not been reinstated, as ordered therein. This contention has been controverted by Shri R.V. Sinha, learned counsel, who has submitted that the order dated 28.5.2003 shows that the petitioner has been reinstated and placed under deemed suspension w.e.f. 1.3.2000, i.e., the date of earlier dismissal order, which has been quashed and set aside by Tribunal's order dated 3.8.2002. He has, therefore, submitted that the relationship of master and servant has been restored w.e.f. 1.3.2000 and hence, there is no contumacious or willful disobedience of the Tribunal's order.

4. On the other hand, Shri D.R. Gupta, learned counsel has submitted that as there was no inquiry held earlier, there is no question of "further inquiry" as provided under Rule 10 (4) of the CCS (CCA) Rules, 1965 and thus the provisions of this Rule are, therefore, not attracted to the present case. He has vehemently submitted that there is no reinstatement, as ordered by the Tribunal in the present case.

js

7


5. After careful consideration of the facts and ^{the} ~~the~~ circumstances of the case and the aforesaid orders passed by the respondents on 28.5.2003, we are unable to agree with the contentions of the learned counsel for the petitioner that there has been willful or contumacious disobedience of the Tribunal's order justifying further action being taken against the respondents under the provisions of the Contempt of Courts Act, 1971 read with Section 17 of the Administrative Tribunals Act, 1985. It is seen from the order dated 28.5.2003 that as the respondents have placed the petitioner under deemed suspension w.e.f. 1.3.2000, he shall continue to remain under suspension until further orders and they have also directed that further inquiry should be held under the provisions of the CCS (CCA) Rules, 1965. The Tribunal had by the order dated 3.8.2002 allowed the OA and directed the respondents to reinstate the petitioner in service forthwith with liberty to the Department to conduct ^{an inquiry} ~~an inquiry~~ against the petitioner in accordance with the relevant rules. The contention of Shri D.R. Gupta, learned counsel raises questions of interpretation and purport of the provisions of Rule 10 (4) of the CCS (CCA) Rules, 1965. Following the settled law ^{of} ~~of~~ the Hon'ble Supreme Court in the cases of Suresh Chandra Poddar vs. Dhani Ram and others (SCALE 2001 (8) 452) and J.S. Parihar Vs. Ganpat Duggar and others (JT 1996 (9) SC 611), we do not think that in the facts and circumstances of the case, there is any justification to proceed further in the present Contempt Petition, as it cannot be held categorically

12

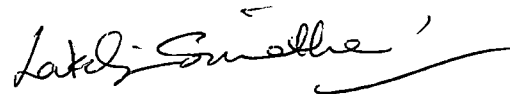
8

that the respondents have willfully or contumaciously disobeyed the Tribunal's order. It is clear from the aforesaid order passed by the respondents that w.e.f. 1.3.2000 ¹²that the petitioner is placed under deemed suspension thereby restoring the relationship of master and servant. The decision of the Hon'ble Supreme Court in Mahender Singh's case (supra) relied upon by the applicant is also not applicable to the facts and circumstances of the present case.

6. For the reasons given above, CP 113/2003 is dismissed. Notices issued to the alleged contemnors are discharged.



(R.K. UPADHYAYA)
MEMBER (A)



(SMT. LAKSHMI SWAMINATHAN)
VICE CHAIRMAN (J)

/ravi/