

Central Administrative Tribunal
Principal Bench: New Delhi

OA 1428/95

New Delhi this the 2nd day of December 1996

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)
Hon'ble Mr R.K.Ahooja, Member (A)

S.S.Dhariwal, LDC
Ministry of External Affairs
South Block, New Delhi
(Through Advocate: Shri Jog Singh) ...Applicant.

Versus

1. Union of India through
The Secretary
Ministry of External Affairs
South Block
New Delhi.
2. The Secretary
Ministry of Finance
Dept. of Revenue
North Block
New Delhi.
3. The Staff Selection Board
Dept. of Personnel & Training
Kendriya Karyala Parishat
Lodi Road, New Delhi.
4. The Collector
Customs & Central Excise
Collectorate of Customs & Cetral Excise
ITO New Delhi. ...Respondents.
(Through Advocates: Shri N.S.Mehta for Respondent 1,
Shri Madhav Panikar, for Respondent 3,
Shri R.R.Bharti for respondent 2 & 4)

O R D E R (oral)

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

Applicant while working as LDC in the Ministry of External Affairs appeared for a competitive examination and was selected for appointment to the post of Inspector, Central Excise. Unfortunately for the applicant in the meanwhile, there was a disciplinary proceeding against him, with the result that though offer of appointment was issued in the year 1993, Ministry of External Affairs did not accept his technical resignation to enable him to join the post. Even after the applicant was exonerated in the disciplinary proceedings, his appointment did not take effect and, therefore, he has filed

this application under Section 19 of the Administrative Tribunals Act for a direction to compel respondent 1 to accept his technical resignation and to grant no objection for appointment of the applicant as Inspector of Central Excise and a further direction to respondent 4 to appoint him on the post.

2. Respondents appeared through counsel, Shri N.S.Mehta for respondent 1, Shri R.R.Bharti for 2 and Shri Madhav Panikar for 3. Respondents have filed reply. However, it has been indicated in the reply statement that the question of appointment to the applicant would be considered after getting a report from the police to whom a report of concurrence basing on which the disciplinary proceedings were held had been made. When the matter came up for hearing today, Shri R.R.Bharti states that the report has been received from the police; that on the basis of first information given, the police have laid a challan against the applicant in the Court of Metropolitan Magistrate, Patiala.

3. We have heard learned counsel. It is a fact beyond dispute that the applicant has been selected for appointment as Inspector of Central Excise and that the offer of appointment was issued to him. The appointment could not take effect for the reason that a disciplinary proceeding was pending and now though the disciplinary proceeding has come to a conclusion in which the applicant was exonerated, a criminal case has since been laid against the applicant. It is for the appointing authority taking into account various facts and developments to take a decision on the question of appointment of the applicant. It does not appear to be proper for the Tribunal at this juncture to give any positive direction other than leaving it to the competent authority concerned to consider the

question of appointing the applicant on the basis of an assessment of the situation especially arising out of launching of the criminal case against the applicant. We, therefore, dispose of this application at this stage with direction to the respondent 4 to take a decision in the matter of appointment of the applicant on the post of Inspector of Central Excise as expeditiously as possible. If respondent 4 decides to appoint the applicant, the respondent 1 shall accept the technical resignation and forward necessary No Objection Certificate.

There is no order as to costs.

R.K.Ahooja
(R.K.Ahooja)
Member (A)

(A.V.Haridasan)
Vice Chairman (J)

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