

(39)

Central Administrative Tribunal, Principal Bench

O.A. No. 337/95

New Delhi, this the 3rd day of August, 2000

Hon'ble Mr. S. R. Adige, Vice Chairman(A)  
Hon'ble Mr. Kuldip Singh, Member (J)

Sh. Om Prakash  
S/o Sh. Ami Chand  
Deputy Office Superintendent  
SA-42, Shastri Nagar, Ghaziabad. Applicant

By Advocate: None

Versus

1. Union of India  
through the Secretary,  
Central Board of Excise and Customs,  
North Block,  
New Delhi.

2. Collector of Central Excise,  
Meerut (U.P.).

3. Deputy Collector (P&E),  
Central Excise, Meerut,  
U.P.

4. Assistant Collector,  
Central Excise Division-I,  
Rampur U.P.

Respondents

(By Advocate - None)

O R D E R (ORAL)

By Hon'ble Mr. S. R. Adige, Vice-Chairman(A)

1. Applicant impugns disciplinary authority's order dated 5.1.94 (Annexure A-2), the appellate authority's order dated 28.4.95 (Annexure R-1) as well as his suspension order dated 27.11.1991 (Annexure A-1). He seeks release of his salary for the period 12.9.91 to 21.10.91 during which he claims he actually worked and also claims full salary and consequential benefits w.e.f. 2.12.91. He also seeks release of subsistence allowance from June, 1994 till date.

2. Applicant's counsel had been heard on 25.7.2000

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and he had also sought time to file written submissions. Respondents' counsel was also granted time till 3.8.2000 to make submissions. Today none appeared for either side even on the second call.

3. A perusal of the impugned orders reveals that applicant was proceeded against departmentally on the charge that upon revocation of his suspension, he was posted to the technical branch of respondents' organisation by order dated 16.9.1991, in compliance of which he submitted joining report on 21.10.1991 but remained unauthorisedly absent thereafter without any intimation or application till 27.11.1991.

4. In the grounds taken in the OA, applicant contends that he was unwell during the aforesaid period and had submitted leave applications on 22.10.91 and 12.11.91 supported by medical certificates which were disregarded by the respondents. ~~from time to time~~. This contention has been disbelieved by the Inquiry Officer in the light of certain discrepancies in the statements of applicant during the departmental enquiry.

5. It is not open to the Tribunal in exercise of its writ jurisdiction to reappreciate the evidence on the basis of which the penalty has been imposed upon the applicant. Perusal of the material on record reveals that there has been no infirmity in conduct of the proceedings so as to raise a doubt as to whether applicant was granted full opportunity to defend himself, which would warrant judicial

interference by the Tribunal.

6. Respondents in their reply have also stated that apart from the charge of unauthorised absence from duty, there were serious charges of financial irregularities, embezzlement, fraud and cheating etc. against applicant which resulted in issuance of three charge-sheets upon the advice of CBI and one on the basis of investigation of the department, which necessitated applicant to be placed under suspension and the subsistence allowance admissible to him has been paid to him.

7. In the light of aforesaid facts and circumstances, we find no good reasons to interfere in this OA which is accordingly dismissed. No costs.

(Kuldip Singh)  
Member (J)

(S. R. Adige)  
Vice Chairman (A)

Later Shri N.S. Mehta appears on behalf of

respondents.

(Kuldip Singh)  
Member (J)

(S. R. Adige)  
Vice Chairman (A)

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