

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No.2667 of 1996 decided on 27.5.1997.

Shri S.R. Hasan
(In-person)

....Applicant

Versus

Union of India & Ors.

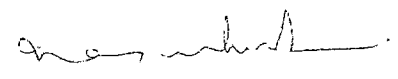
....Respondents

(By Advocate: Shri R.R. Bharati)

Corum

Hon'ble Mr. N. Sahu, Member(A)

1. To be referred to the Reporter or not? YES
2. Whether to be circulated to other benches of the Tribunal? NO


(N. SAHU)
Member(A)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No. 2667/96

New Delhi this the 21st day of May 1997.

Hon'ble Mr. N. Sahu, Member(A)

Shri S.R. Hasan,
S/o Late Shri S.A. Hasan,
Additional Commissioner,
Customs & Central Excise,
(Last employed at Central Revenue
Building, I.P. Estate, New Delhi)

...Applicant

(Applicant in-person)

Versus

1. Union of India
through
The Secretary,
Ministry of Finance,
Department of Revenue,
New Delhi.

2. Central Board of Customs,
Ministry of Finance,
New Delhi.

...Respondents

(By Advocate : Shri R.R. Bharati)

JUDGEMENT

Hon'ble Mr. N. Sahu, Member(A)

In this OA the prayer is to set-aside the impugned communication F.No.28012/83/93-EC/PER dated 17.10.1994. By this letter the applicant was informed that the superior reviewing officer has recorded his assessment for the entire year 1983 and, therefore, it shall be a valid ACR for both the periods from January, 83 to June, 83 and from July, 83 to December, 83. The brief background facts are as under:

2. The applicant, Shri S.R. Hasan, for the relevant year 1983 was a Deputy Director in Meerut for the period from January, 1983 to June, 1983. He

was posted as DC, Hyderabad for the remaining part of the year. According to him the two part reports should have been written by two different reporting officers since he worked in both the charges for more than 3 months. The answer provided by the respondents that the Member, CBCE(South Zone) reviewed for the entire period and therefore, there was no infirmity to the applicant because the Member(North Zone) was the reviewing officer for the period from January, 83 to June, 83. The reviewing should have been done also by Member(North Zone), according to him. He placed before me a brochure on preparation and maintenance of confidential reports issued by Department of Personnel & Training on the subject of confidential reports. He drew my attention to Para 2.9 of the said brochure. It is stated that if the reviewing officer is not sufficiently familiar with the work of the Govt. servant reported upon so as to be able to arrive at a proper and independent judgement of his own, he should verify the correctness of the remarks of the reporting officer after making such enquiries as he may consider necessary. As the two Collectors for the two part periods he worked during the calendar year 1983 were different and as two reviewing officers were different and as he worked for more than 3 months in both these part periods, the Collector of Central Excise, Hyderabad was not correct in initiating the applicant's confidential report for the year 1983 himself all alone without consulting or obtaining the remarks of the Collector of Central Excise, Meerut. Both the Collectors, according to the applicant, should have initiated the ACRs for two relevant periods. In the counter it is submitted that the

applicant had furnished his resume for the whole year to the Collector of Central Excise, Hyderabad who had written the ACR and sent to the Member of his zone. The Member had stated that he reviewed the applicant's ACR for the entire year of 1983. Therefore, the ACR was treated as complete and taken on record. After a lapse of about 10 years, the applicant by his representation dated 27.05.1993 requested the Ministry that his ACR for 1983 must not be treated as complete and suggested that report for the period January, 83 to June, 83 should be written by Shri Lajja Ram who worked as the then Collector, Central Excise, Meerut. After consultation with the Ministry of Personnel, the decision not to reopen the case was conveyed to the applicant by the impugned letter dated 17.10.1994. It is contended by the learned counsel for respondents that the entertainment of the applicant's representation cannot revive a decade old time barred case. As the representation has been rejected by the letter dated 17.10.1994, the OA filed in December, 1996 is stæd to be time barred.

3. I have carefully considered the submissions made by the applicant as well as the counsel for respondents. After hearing the applicant's explanation, I am satisfied that this petition can be entertained. On merits, the reporting officer had written in Part II that he had seen the work of the applicant only for a period of 4 months which was the later period but he had before him the self-appraisal report of the officer for both the periods. The reviewing officer Shri R.C. Mishra noted that he reviewed the work of the applicant for

the entire calendar year. It has been made very clear that "the reviewing officer has in his remarks stated that the length of service of Shri S.R. Hasan under him was for the entire period of 1983 and graded him as Good. Even if there had been written a separate report on Shri Hasan by the Collector of Central Excise, Meerut for the period from January, 83 to June, 83 the same would have also been reviewed by the same reviewing officer." Thus, the applicant's contention that his work would have been reviewed by the Member (North Zone) is contradicted. Confidential remarks are expected to record the objective assessment of the reporting officer and reviewing officer. The reporting officer had seen the work of the reviewing officer for 4 months and, therefore, he was competent to record his impressions. Therefore, that reporting of Collector, Hyderabad is valid and proper. The reviewing officer, Member, CBCE (South Zone) had considered the work of the officer for one full year and he has also made his remarks. It was the duty of the applicant to have sent his resume to the Collector, Central Excise, Meerut under whom he worked during the first part, namely, from January, 83 to June, 83 with the request that along with his comments he should send his C.R. to the Collector, Central Excise, Hyderabad for incorporating his remarks so that the Collector, Hyderabad would have taken the remarks of Collector, Meerut and sent both to reviewing officer. There is one more reason as to why it is unnecessary and impractical to revive this issue at this late stage. There is timeframe for writing a confidential report. This time frame is within 6 months of the close of the period reported

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upon. No worthwhile purpose will be served by asking a retired Collector after 15 years of the period reported upon to comment on the applicant's performance. This defeats the very purpose of writing a confidential report which is to record in an objective manner the impressions of a Govt. servant's performance. It would be difficult for any human being to retain and remember the impressions on the performance of an officer after 15 years. There is nothing illegal in the procedure adopted in the applicant's case. The reporting officer, Collector, Hyderabad, was competent and his report was proper. The remarks of the Collector, Meerut would certainly have complemented the report into a whole but this lacunae had been made good by the reviewing officer who stated that he was reviewing the entire period of performance. As a reviewing officer he was competent to do so because as has been made clear, he would have been the same reviewing officer even if an additional report had been written by Collector, Meerut. Assuming for a moment that there is a separate reviewing officer for North Zone; even so, the observations of the Member who ⁿoted that he was reviewing on the year's work has to be accepted as a statement of a senior officer who must have actually and genuinely reviewed the performance even if Meerut is not, in a technical sense, in his jurisdiction. I am not aware of any legal bar for any Member of a zone to look into an official's past performance in another zone. In fact the whole framework of C.R. writing is not based on any rule framed under Article 309 of the Constitution. It is based on executive instructions. Courts have to only examine as to whether the purpose

of assessment in a C.R. is achieved or not. In my view, the said purpose has been achieved in this case. As the performance assessment of the applicant for 1983 had been made without a flaw by the reporting officer of Hyderabad for a part of the period and by the reviewing officer for the whole of the period, no fruitful purpose will be served by reviewing a stale issue. There is no merit in this petition. It is dismissed. No Costs.

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N. Sahu
(N. SAHU) 27.5.97.
Member(A)

/Skant/