

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.2039/97
O.A.No.2439/97

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Smt. Shanta Shastry, Member(A)

New Delhi, this the 30th day of June, 2000

O.A.No.2039/97:

Laxmi Dutt Pancholi
s/o Sh. Khima Nand Pancholi
r/o HO Village Talla Mashard
Post Jayantayswar Simalchoora
Dist. Almora U.P. ... Applicant

(By Mrs. Rani Chhabra, Advocate)

Vs.

1. Union of India through
Ministry of Finance
Department of Revenue
New Delhi.
2. Central Board of Excise and Customs
Ministry of Finance
Department of Revenue
New Delhi.
3. Collector
Central Board Excise and Customs
Northern, U.P.
Meerut.
4. Addl. Collector (P&V)
Department of Central Excise
Meerut. ... Respondents

(By Shri N.S.Mehta, Advocate)

O.A.No.2439/97:

1. Dharamveer Singh (Driver)
s/o Shri Mahendra Singh
161/6 Phool Bagh Colony
Meerut City.
2. Mahendra Singh (Sepoy)
s/o Sri Shish Ram
r/o Rajeev Gandhi Nagar
Jail Chungi
Meerut. ... Applicants

(By Mrs. Rani Chhabra, Advocate)

Vs.

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

2. Central Board of Excise and Customs
 Ministry of Finance
 Department of Revenue
 New Delhi.

3. Collector
 Central Board Excise and Customs
 Northern, U.P.
 Meerut.

4. Addl. Collector (P&V)
 Department of Central Excise
 Meerut. ... Respondents

(By Shri N.S.Mehta, Advocate)

O R D E R (Oral)

By Reddy. J.

As these two OAs raise a common question of fact and law, they can be disposed of by a common order. For the purpose of facility, the facts in OA No.2039/97 are stated here under:

2. The applicants, who were initially appointed as Sepoy, were working as Drivers ^{and Sepoy} at the relevant point of time ^{by} the charge Memo dated 10.6.1993. It was alleged that the applicants on a closed holiday in the night of 21.2.1993, unauthorizedly used the Government Vehicle and the Govt. Uniforms on Meerut Garh Road stopped and searched the trucks and other vehicles, without any orders and powers, with the intention to obtain illegal bribe and collected money from them. The applicants denied the charges. The enquiry officer conducted an enquiry and exonerated the applicants. However, the disciplinary authority, disagreeing with the findings of the enquiry officer, imposed the penalty of withholding of three increments with cumulative effect by the impugned order dated 13.5.1994, which has been confirmed by the appellate

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authority by order dated 31.3.1995 and subsequently by the revisional authority by order dated 23.4.1997. These orders are under challenge in this OA.

3. The only contention raised by the learned counsel for the applicant is that the disciplinary authority having disagreed with the findings of the enquiry officer, ought to have recorded the reasons for disagreement and supplied the same to the applicants giving an opportunity to make representation against the said reasons for disagreement. However such opportunity was denied to the applicant. Therefore, it is contended that the impugned orders are void. Learned counsel relied on Yoginath D. Bagde Vs. State of Maharashtra & Anr., JT 1999(7) SC 62 and Punjab National Bank Vs. Kunj Behari Misra, 1998(7) SCC 84 = JT 1998(5) SC 548.

4. The learned counsel for the respondents fairly conceded that the impugned orders are vitiated on this ground.

5. In view of the Judgments in the above cases, we are of the view that the contention is unexceptionable and hence orders are vitiated, for not giving opportunity to the applicant against the reasons for disagreement.

6. In the above circumstances, both the OAs are allowed and the impugned orders are quashed. The respondents are directed to give an opportunity of making representation against the reasons for

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✓ disagreement of the disciplinary authority with the findings of the enquiry officer after recording such reasons for disagreement by him, within a period of two months from the date of receipt of a copy of this order. Thereafter, the applicants have to make representations within four weeks and the disciplinary authority after considering the representations made by the applicants, if any, pass the final order within a period of six weeks thereafter. Both the OAs are accordingly allowed. No costs.

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(SMT. SHANTA SHAstry)
MEMBER(A)

Ch. Rajagopal Reddy

(V.RAJAGOPALA REDDY)
VICE CHAIRMAN(J)

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