

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.549/94

NEW DELHI THIS THE 27TH DAY OF APRIL, 1994.

MR. JUSTICE S.K.DHAON, VICE-CHAIRMAN(J)
MR. B.K. SINGH, MEMBER(A)

1. Sh. Devinder Singh Nagi
Inspector (Customs & C.E.)
C-3/249, Lodi Colony
New Delhi-110 003.

2. Sh. Kailash Chand
Inspector (Customs & C.E.)
24 D Janta Flats
Ashok Vihar Phase III
(Behind Laxmi Bai College)
Delhi ...

APPLICANTS

BY ADVOCATE SHRI K.B.S. RAJAN.

vs.

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

2. The Collector of Customs, Delhi
Indraprasta Estate
New Delhi 110 002 ...

RESPONDENTS

BY ADVOCATE SHRI R.R. BHARTI.

ORDER (ORAL)

JUSTICE S.K.DHAON:

Disciplinary proceedings were initiated against the applicants. The inquiry officer submitted his report to the disciplinary authority. The disciplinary authority, after disagreeing with the findings recorded by the inquiry officer, awarded a punishment of removal from service to the applicants. In the appeal preferred by the applicants, the appellate authority modified the order and awarded a lesser punishment. The orders passed by the disciplinary authority and the appellate authority are being impugned in this OA.

2. The only point urged at this stage, in this OA, is that the disciplinary authority disagreed with the recommendations made by the inquiry officer

without giving any opportunity of hearing to the applicants.

3. In compliance of the order of this Tribunal dated 21.3.1994, the respondents have filed a short reply on the question whether the disciplinary authority, in fact, issued any show-cause-notice to the applicants before disagreeing with the findings of the inquiry officer. In this reply, it is admitted that no such notice was given to the applicants. In view of this admission, the order of the disciplinary authority is not sustainable.

4. This OA succeeds in part. The order passed by the disciplinary authority is quashed. Consequently, the order passed by the appellate authority too is quashed. The disciplinary authority shall now give a show-cause-notice to the applicants and pass an appropriate order on merits, in accordance with law and on the basis of the material already on record after considering the reply of the applicants. He shall do so within a period of three months from the date of production of a certified copy of this order by any of the applicants before him.

5. The orders of the disciplinary authority as well as the appellate authority having been quashed, the legal position is that no order punishing the applicants exists. The question still remains is

whether this is a fit case where the applicants should be paid arrears on the footing that no order of punishment was ever passed against them. As a consequence of the appellate order, the applicants became entitled to and must have been paid pay and allowances at the minimum scale of pay even from the date of passing of the order of removal from service by the disciplinary authority. In the circumstances of this case, we direct that the applicants shall be paid the emoluments which should have been payable to them but for the orders passed by the disciplinary authority and the appellate authority. While computing the payments to be made to the applicants, the authority concerned shall be entitled to deduct whatever payments have been made to them in pursuance of the appellate order. Payments shall be made within a period of one month from the date of production of a certified copy of this order by any of the applicants before the relevant authority.

6. There shall be no order as to costs.

(B.K. SINGH)
MEMBER(A)

(S.K. DHAON)
VICE-CHAIRMAN(J)

sns