

**CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.**

ORIGINAL APPLICATION No. 308/2020

Dated this Monday the 14th day of December, 2020.

**Coram: Dr.Bhagwan Sahai, Member (Administrative)
Ravinder Kaur, Member (Judicial).**

**Proceeding conducted through video conferencing with
the consent of both counsels for the parties.**

Gopal Kumar, (son of Yogesh Chandra Ghosh)
Date of Birth: 06.08.1969, age 51 years 02 months,
working as Superintendent (Group "B" post) in the Office of Commissioner,
CGST, Mumbai-West, Mahavir Jain Vidyalaya, C.D. Barfiwala Marg,
Juhu Lane, Andheri (West), Mumbai-400058
and residing at : 601/26, 6th Floor, 26, MHADA, Central Excise Officers
Quarters, Oshiwara, Link Road, Andheri (West),
Mumbai – 400 053, State of Maharashtra,
Cell: 8104136011, email ID:gkpious@gmail.com .. Applicant.
(By Advocate Shri R.G. Walia).

Versus

1. Union of India, through The Principal Chief Commissioner
of Central Tax, CGST and Central Excise, Mumbai Zone,
Cadre Controlling Authority (CCA),
115, M.K. Road, Central Excise Building,
Churchgate, Mumbai – 400 020.
2. Commissioner of CGST, Mumbai WEST,
Mahavir Jain Vidyalaya, C.D. Barfiwala Marg, Juhu Lane,
Andheri (West), Mumbai – 400 058.
3. Jayshankar P. Upadhyay,
Deputy Commissioner-Cum-Inquiry Officer,
Through: Commissioner of CGST, Mumbai WEST,
Mahavir Jain Vidyalaya, C.D. Barfiwala Marg, Juhu Lane,
Andheri (West), Mumbai-400058. .. Respondents.
(By Advocate Shri R.R. Shetty).

Order (Oral)
Per : Dr.Bhagwan Sahai, Member (A) .

Present :

Advocate Shri R.G. Walia for the applicant.

Advocate Shri R.R. Shetty for the
respondents.

2. Heard both of them. In this O.A. the applicant has challenged report of Inquiry Officer dated 24.06.2020. The main argument of the applicant's counsel is that the Inquiry Officer and the Disciplinary Authority have not provided him the micro SD Card of transcript of conversation alleged between the applicant and another officer and representatives of the concerned party who had official dealing with them. Shri Walia pleads that because of this reason, the report of the inquiry officer in the disciplinary proceedings be stayed. Apart from the disciplinary proceedings initiated against the applicant, criminal case no.17/2016 is also pending against him in Special CBI Court, Mumbai.

3. Shri R.R. Shetty contends that the transcript of the above mentioned conversation was submitted to the CBI Court and from there it has been sent to the Forensic Laboratory from where it has not yet been received back. The print out of the conversation recorded in the transcript is already available with the applicant as enclosed with the O.A. at Annex A- (page 121-137). In addition, there is credible evidence available against the applicant through witnesses who have been listed in the list of documents and witnesses provided to the applicant. Therefore, at this stage, filing of the O.A. is at very premature stage and instead of filing this OA,

the applicant must submit his grievance in this regard to the disciplinary authority and on completion of the inquiry and decision thereon by the Disciplinary Authority, and only after availing of available statutory remedies, the applicant can seek relief from the Tribunal. He cannot file this O.A. At this stage and, therefore, the present OA should be dismissed at admission stage itself.

4. We have carefully considered submissions of both the counsels and have perused the details of the O.A. In our opinion, the O.A. has been filed at a very premature stage when the Inquiry Officer has not yet completed his inquiry and the applicant has available opportunity of taking up with the DA his grievance regarding evidence to be examined and relied upon against him. Therefore, the present O.A. at this stage is not maintainable. Hence it is dismissed at admission stage itself.

(Ravinder Kaur)
Member (J)

(Dr. Bhagwan Sahai)
Member (A)

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