



**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No. 869/2021

This the 12th May of day, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Tarun Shridhar, Member (A)**

Sandeep Prakash
Principal Commissioner (RA) & E-officio Additional
Secretary to the Government of India
Department of Revenue, Ministry of Finance
6th Floor, HUDCO Vishala Building, B Block
Bhikaji Cama Place, R.K. Puram
New Delhi- 110066

..... Applicant

(By Advocate: Sh. Naresh Kaushik)

Versus

1. Central Vigilance Commission
Through its Secretary
Satarkata Bhawan, A-Block,
GPO Complex, INA
New Delhi- 110023
2. Principal Director General of Vigilance
Directorate General of Vigilance, Indirect
Taxes & Customs
2nd Floor, Samrat Hotel, Chanakyapuri
New Delhi- 110021
3. Central Board of Indirect Taxation & Customs
North Block, New Delhi

...Respondents

(By Advocate: Sh. Gyanendra Singh)



ORDER (Oral)

Hon'ble Mr. Tarun Shridhar:

The applicant, who is a senior officer of the Central Board of Excise & Customs, is aggrieved by an order No. V.539/09/2016/1813 dated 10.01/02.2020 by virtue of which, an administrative warning has been issued to him. The applicant seeks quashing of this order in the present OA.

2. The brief history of the case is that the Hyderabad Unit of the Directorate General of Vigilance investigated an issue with respect to alleged theft/pilferage of certain gold and jewellery items. As a result of the investigation, the applicant was held guilty of lack of supervision and omission to observe instructions with respect to verification of stocks. For this lapse, an administrative warning was issued to him, vide the order, which is impugned in this OA.

3. The learned counsel for the applicant argues that the statutory provisions for vigilance manual have been violated while issuing this administrative warning. He points out that the vigilance manual clearly stipulates that the public servant against whom an inquiry is conducted, must be



given an opportunity to present his case, but, no such opportunity was accorded to the applicant. He contends that a one-sided inquiry was held, and that was followed by the administrative warning. Learned counsel further argues that there is gross violation of principles of natural justice. He further states that this administrative warning would cause serious prejudice to the applicant in his further career progression and it amounts to a penalty considering that the applicant is one of the senior most officers of the department.

4. Learned counsel for the respondents on the other hand argues that the administrative warning was not issued under CCS (CCA) Rules 1965 or any other statutory disciplinary proceedings and hence, it does not amount to a penalty under the relevant disciplinary rules. He points out that this administrative warning would have no adverse impact and would not serve as an impediment to the promotion of the applicant in future. He draws our attention towards a DoP&T OM No. 11012/06/2008/Estt./A, dated 07.07.2008 which stipulates that –

“warnings, caution, reprimands or advisories, administered to the government servant do not account to penalty and therefore, will not constitute a bar for



consideration of such government servant for promotion."

He vehemently argues that since the administrative warning is more in the nature of an advice and considering that it does not have any legal impact so as to be an obstacle to the applicant's promotion, there is no need to quash it.

5. We heard the learned counsels for the parties and perused the documents on record.

6. The applicant was administered warning, through the impugned order. He contends that the impugned order violates the principles of natural justice and is also contrary to the procedure laid down in the vigilance manual. We find that the order cannot be sustained on a simple ground that no opportunity was accorded to the applicant to present his case especially when observations such as "*the applicant failed to discharge his duties as a supervisory officer*" and he allegedly is guilty of "*failure to adherence to instructions*" etc. are made therein. The administrative warning clearly uses the word "*warned*" and not "*advised*" when it exhorts the applicant to exercise his duty. Such an order can be passed, only as a sequel to the disciplinary proceedings.



7. We also cannot accept the contention of the learned counsel for the respondents that in terms of the DoP&T circular, this warning will not be a bar to the promotion of the applicant. Since the process of empanelment and promotion at such senior levels takes into consideration of entire service record, this impugned order which holds the applicant guilty of failure of discharge his duties, is likely to cause serious prejudice to him. Moreover, the applicant's representations against this order too have not been considered by the respondents.

8. The impugned order, administering an administrative warning, has been passed in violation of the principles of natural justice, and without following the procedure under law. Hence, we allow the OA, and quash the impugned order No. V.539/09/2016/1813. There shall be no order as to costs.

(Tarun Shridhar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/pinky/dsn