

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD**

O.A.No. 506 OF 1992

Ahmedabad this the 9th day of September, 1999

Hon'ble Mr. V. Ramakrishnan, Vice Chairman
Hon'ble Mr. P.C. Kannan, Judicial Member

Shri S.J. Parmar
Gestetner Operator
Customs Division (Paldi)
Ahmedabad.

Applicant

By Advocate: Mr. R.S. Gajjar.

VERSUS

1. Union of India,
To be served through
Member(Personnel & Vigilence)
Central Board of Excise and Customs,
Ministry of Finance,
Department of Revenue
New Delhi.
2. Collector of Customs and Central Excise
Ahmedabad. Respondents.

By Advocate: Mr. B.N. Doctor.

ORDER (Oral)

Hon'ble Mr. V.Ramakrishnan, Vice Chairman.

The applicant's counsel has not been present on the last many occasions. As it is a 1992 matter, we propose to dispose of the OA after

going through the materials on record and with the assistance we have received from Mr. B.N.Doctor for the respondents. The applicant had sought for multiple relief in the OA and by an order dated 3.2.93, the Tribunal had restricted the OA only to relief (I) as the learned counsel for the applicant had stated that he confines this OA only regarding relief as per para 8(I) challenging the penalty of stoppage of increments.

2. The applicant an employee of the Central Excise and Customs Department was served with a charge sheet alleging that he made baseless allegations against other officers and that he had conducted enquiry on his own in the name of the Collector of Customs unauthorisedly and he has forced a daily waterman to write complaint against other officers and that he was misusing the name of the Collector for his personal gains. The applicant denied the charges and the Department appointed an enquiry officer and the presenting officer. A detailed enquiry was conducted and number of witnesses were examined including casual labourer Marwadi. The applicant has also had participated the enquiry and the enquiry officer took the view that the applicant being a President of the Union cannot be solely made responsible for creating the problem. The enquiry officer however had noted that Marwadi who was the casual labourer had deposed and there was some material to substantiate the charge. The enquiry officer's finding that the charge was not proved was not accepted by the disciplinary authority. The disciplinary authority by its order dated 17/22.8.89 held that the charge, of conducting illegal enquiry against the applicant was established and that the applicant had exhibited lack of devotion to duty etc. and inflicted the penalty of withholding of one annual increment. While ~~dealing~~ ^{dealing} with the enquiry officer, the disciplinary ~~officer~~ ^{authority} had given detailed reasons in support

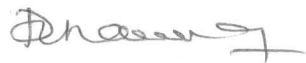
of his decision. The applicant had filed an appeal against the orders of the disciplinary authority to the Collector of Customs and Central Excise alleging that the disciplinary authority had differed from the enquiry officer only because he was biased against the applicant. This appeal was considered by the Collector who had rejected the same by his detailed order dated 15.12.89 as at Annexure A-6. A further petition was also filed before the Collector, Ahmedabad and the Collector informed the applicant that he may send a memorial to the Member (Personnel). This was done by the applicant by his petition dated 15.2.90 as at Annexure A-10. In this petition, the applicant alleged that the evidence ~~was~~ relied upon by the Department was fabricated and there was no evidence to substantiate the charge. He has contended that the applicant belongs to the SC and the enquiry officer should also have belonged to that category. He has challenged at the stage of filing a revision petition the appointment of the presenting officer. He had proceeded to question the evidence on record and also to challenge the veracity of the witnesses. This memorial which is a revision petition was rejected by the Member (Personnel) of the Central Board of Excise & Customs dated 16.1.91 as at Annexure A-11. In this order the revisional authority had given the detailed reasons in support of his decision.

3. The scope of the Tribunal with regard to interference of the orders in the disciplinary proceedings is now well settled. We find here that a detailed enquiry was held where the applicant participated. The enquiry officer has no doubt held that the charges were ^{not} proved but the disciplinary authority had disagreed with the finding of the enquiry officer and has given reasons in support of the same. In his appeal and also in the revision petition the applicant challenged the veracity of the witnesses and alleged that there was

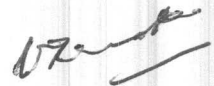
no independent evidence apart from the department officials. He has also inter alia challenged the appointment of general category officer as the enquiry officer and at the time of filing of the review petition the appointment of the presenting officer. From the orders of the disciplinary authority and the appellate authority and revisional authority we find that they had gone on the basis of the evidence which was adduced during the enquiry while ~~being~~^{coming} to their finding. Mr. Doctor also submits that the nature of the allegation was such that it involves the departmental officials and there was no scope of any other evidence. It is not for the Tribunal to reappraise the evidence and substitute its own judgment to that of the authorities. We find that there was some material on the basis of which the disciplinary authority and the appellate authority and revision authority came to their finding and it is not a case of no evidence at all. We also do not find that the finding of the authorities is in any way perverse. When a second appeal was filed, the appellate authority had brought to the notice of the applicant that while he cannot entertain the petition ^{but} the applicant could however file a memorial to the Member, Central Board of Customs and Central Excise. After getting this intimation the applicant did submit the petition which was duly considered and disposed of. 12

We also do not find any merit in the contention that merely because an enquiry was held by a general category officer and not the scheduled caste officer, the same is vitiated. The challenge made by the applicant for appointing the presenting officer has been done at a much later stage. 12

4. In the facts and circumstances of the case, we hold that this is not a fit case for the Tribunal to interfere. The OA is dismissed. No order as to costs.



(P.C. Kannan)
Member(J)



(V. Ramakrishnan)
Vice Chairman

Vtc.