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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 115 OF 1993
Cuttack this the 07th day of March, 2000

Sk. Abdul Manan

Applicant(s)

-Versus-

Union of India & Others

Respondent(s)

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

7.3.2000
(G. MARASIMHAM)
MEMBER (JUDICIAL)



CENTRAL ADMTNSTRATIVE TRTRUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.115 OF 1993
Cuttack this the 07th day of March, 2000

CORAM:

THE HON'BLE SHRT SOMNATH SOM, VICE-CHAIRMAN
AND
THE HON'BLE SHRT G.NARASTHAM, MEMBER(JUDICIAL)

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Sk. Abdul Manan,
aged about 38 years,
Son of Late Sk. Ramjan, at present
working as Driver, Central Excise &
Customs, Customs House,
At/Po: Paradeep, District : Cuttack

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Applicant

By the Advocates : M/s.R.N.Naik
A.Deo
B.S.Tripathy
P.Panda

-Versus-

1. Union of India represented by it's
Secretary, Ministry of Finance,
Department of Revenue,
New Delhi
2. Collector, Central Excise and Customs
At/Po: Bhubaneswar, Dist: Puri
3. Assistant Collector, Central Excise
& Customs, Cuttack Division
At: Abhinaba Bidanasi Kata
PO: Chandinichouk, Dist: Cuttack

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Respondents

By the Advocates : Mr.A.K.Bose
Sr.Standing Counsel
Central

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ORDER

MR.G.NARASIMHAM, MEMBER(JUDICIAL): Applicant, a Driver serving under Central Excise & Customs at Paradeep challenges the order dated 24.9.1992 of Respondent No.3, viz., Assistant Collector, Central Fxcise & Customs(Annexure-1) directing recovery of an amount of Rs.235/- holding him responsible for the low mileage shown by the vehicle.

2. Facts not in dispute are that on 25.5.1992(After-noon) while Assistant Collector(Res.3) was going to Income Tax Office along with two other Officers for a meeting with the Deputy Commissioner of Income Tax at cuttack in the departmental vehicle driven by the applicant, the vehicle stopped mid way and ^{had} not started. By then it was heavily raining and rain subsided after 45 minutes. Thereafter the applicant checked the engine and informed that the vehicle had run out of fuel. Report dated 26.5.1992 was accordingly submitted by the Res.3 under Annexure-R/12. On the basis of this report, the applicant was called for an explanation in letter dated 27.5.1992 vide Annexure-R/1. On receipt of the explanation of the applicant, the matter was enquired into and finally the impugned order dated 24.9.1992 was passed.

3. The case of the applicant is that order passed under Annexure-1 is arbitrary and illegal and that the order was passed in a mechanical maner without giving him an opportunity to him. Further it is his case that he had previously reported that the fuel metre was not working and without ascertaining stock position of the fuel, the order could not have been passed.



10. The Department justify the order of recovery.

5. During hearing no counsel appeared on behalf of the applicant. Hence learned Sr. Standing Counsel Shri A.K. Bose on behalf of the Department was heard and the record was perused.

6. We feel that the matter can be disposed of without going into merits. This is a typical case of imposition of penalty without initiation of any disciplinary proceedings. On 26.5.1992 under Annexure-R/12, the applicant was called upon to explain as to why disciplinary action should not be taken against him. On receipt of his explanation the matter was enquired into. Since by then the disciplinary proceeding had not initiated this enquiry was nothing but a preliminary enquiry conducted to know whether there was any case for initiation of disciplinary proceedings. Thereafter without initiating any disciplinary proceedings the impugned order was passed. This being the case the impugned order cannot be sustained under law and needs to be quashed. The impugned order dated 24.9.1992 (Annexure-1) is hereby quashed. The amount, if any, recovered be refunded to the applicant along with costs within a period of 60 (Sixty) days from to-day.

In the result the application is allowed with costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

B.K. SAHOO

7.3.2007
(G. NARASIMHAM)
MEMBER (JUDICIAL)