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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO. 14 of 1995
CUTTACK THIS THE 27th DAY OF APRIL, 2001

B.C. Behera Petitioner

- Vrs -

Union of India & others Opp. Parties

For Instructions

1. Whether it be referred to reporters or not ? Yes -
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? No -

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(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som.
(SOMNATH SOM)
VICE-CHAIRMAN
27.4.2001
— — —

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION No.14 of 1995

CUTTACK THIS THE 27th DAY OF APRIL, 2001

CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
THE HON'BLE SHRI G. NARASIMHAM, MEMBER (J)

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1. B.C. Behera, 52 years of age,
S/o- Late Saradu Behera,
At-Nagabani, P.O./PS-Udala,
Dist- Mayurbhanj,
at present Office Superintendent,
O/O The C.C.E. & C, Rajswa Buhar,
Bhubaneswar-4.

Petitioner

By the advocate:-

Shri P.C. Kar
Shri J. Gupta

- VERSUS -

1. Collector of Central Excise and
Customs, Rajswa Bihar, Bhubaneswar-4
2. Enquiring Officer, Central Excise and
Customs, Rajswa Bihar, Bhubaneswar-4
3. Assistant Collector of Central Excise
and Customs, Naya Bazar, Rourkela-10
Dist-Sundargarh

By the Advocates

..... Opp. Parties

Mr. A.K. Bose

S.Som.

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19

SOMNATH SOM, VICE-CHAIRMAN: In this original application the petitioner has prayed for quashing the chargesheet issued to him in memo dated 10.09.1993 (Annexure 1) on the ground of delay of 5 years and for non supply of documents.

2. Respondents have filed counter opposing the prayer of the applicant. No rejoinder has been filed.

3. The case of the applicant is that he was working as Administrative Officer under Assistant Collector of Central Excise and Customs, Rourkela (respondent No.3) from July, 1990 to September, 1992 when he was transferred to Head Quarters Office at Bhubaneswar in October, 1992. Without making any preliminary enquiry and without calling for any explanation, in the impugned memo dated 10.09.1993 departmental proceedings under Rule 14 of CCS (CCA) Rules were initiated against the applicant. Applicant in his letter dated 24.09.1993 (Annexure-2) wanted one month time to submit his explanation in letter dated 06.10.1993 (Annexure 3). He asked for 13 documents to enable him to submit his explanation. He again wrote on 05.11.1993 (Annexure 4) for supply of documents. Finally on 27.11.1993 (Annexure 5) he submitted his explanation denying the three charges. In two orders issued on 28.02.1994 (Annexures 6&7) Enquiry Officer and Presenting Officer were appointed. At (Annexure 8) is a note dated 24.05.1994 from Enquiry Officer fixing 06.06.1994 as the first date for holding the enquiry. Applicant submitted a letter dated 07.06.1994 (Annexure 9) to the Enquiry Officer asking for

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13
7 more documents. The Applicant has stated that so far the enquiry has not been completed. He has also stated that the charges relates to a period about 5 years ago. He has also made a grievance of non-supply of documents and on these grounds he has come up with the prayers referred to earlier.

4. By way of interim relief applicant had prayed that proceedings against him should be stayed. This prayer was rejected on the date of admission of the original application in order dated 09.01.1995.

5. Respondents have opposed the prayer on various grounds mentioned in the counter. It is not necessary to record the averment of the respondents as these will be taken note of while considering the submissions made by the Learned Counsel of both sides. We have heard Shri P.C. Kar learned counsel for the petitioner and Shri A.K. Bose learned senior Standing Counsel for the respondents and have perused the records.

6. Law is well settled that in cases of disciplinary proceedings the Tribunal does not act as an appellate authority. The scope of interference by the Tribunal in such cases is limited. The submissions made by the learned lawyer for the petitioner have to be considered in the context of the above well settled position of law.

7. Before considering these, three charges against the applicant have to be noted. The first charge is that he claimed and received travelling allowance in respect of tours which were neither approved by the competent authority nor performed by him. The second charge is that he mis-appropriated

Govt. funds by manipulating the Transfer. Travelling Allowance (TA) bill dated 05.02.1991 by increasing the amount sanctioned by the competent authority and receiving amount more than what had been sanctioned. The third charge is regarding sanctioning and paying for purchase of an Executive Table at a price in excess of quoted and approved price resulting in loss to Government. From the above it appears that the charges are serious in nature. It also appears from the imputation of misconduct enclosed to the charges that the alleged lapses relate to different dates in 1990 and 1991. The disciplinary proceedings were initiated in Order dated 10.09.1993. In view of this the contention of the counsel ~~of~~ ^{JJM} the petitioner ~~is~~ that charges were initiated after a delay of 5 years is rejected.

8. Learned counsel for the petitioner has stated that the documents asked by him were not supplied to him along with the charge. A list of 18 documents have been enclosed ^{JJM} to the charge. Respondents have stated in para 6 of the counter that these documents were supplied to him in letter dated 17.11.1993. This contention has not been denied by the applicant by filing a rejoinder. As regards other documents asked for respondents have stated that as these documents were not sought to be relied upon, ^{JJM} these were not supplied to him. They have also denied receipt of the reminder dated 05.11.1993 of the applicant. From the above we see that the documents sought to be relied upon were supplied to him. Under the rules documents need not be supplied. An opportunity is required to be given to the charged official to peruse the documents and to take extracts. But in this case documents have been actually supplied. As regards other documents applicant in his original

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application has not made an averment how these documents are relevant and necessary for the purpose of establishing his innocence. Therefore, it is held that by not supplying these documents principles of natural justice have not been violated and the applicant has not been denied reasonable opportunity.

9. At the time of hearing learned counsel of the parties were not able to indicate if by this time the disciplinary proceedings against the applicant have been concluded. We note that in this case charges were issued in October, 1993. In view of this while we reject the prayer of the applicant for quashing the chargesheet we direct the departmental authorities to complete the enquiry within a period of 120 days from the date of receipt of a copy of this order, if the enquiry has not yet been completed. Further action should ^{be} taken and disciplinary proceedings should be finalised ^{ASdm.} within a period of 60 days thereafter.

10. With the above observation and direction the original application is disposed of. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN
27.4.2001

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