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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 400 OF 1995

Cuttack, this the 8th day of December, 1997

Shri Akuli Charan Samal

...

Applicant

Vrs.


Union of India and another

....

Respondents

(FOR INSTRUCTIONS)

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


(S.K. AGARWAL)
MEMBER (JUDICIAL)


(SOMNATH SINGH)
VICE-CHAIRMAN

(11)

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 400 OF 1995

Cuttack, this the 8th day of December, 1997

CORAM:

HONOURABLE SHRI SOMNATH SOM, VICE-CHAIRMAN
&
HONOURABLE SHRI S.K.AGARWAL, MEMBER (JUDICIAL)

....

Shri Akuli Charan Samal,
Superintendent, Central Excise & Customs,
M/s Indian Charge Chrome Ltd.,
Choudwar, District-Cuttack

.... Applicant

For the applicant - Mr.A.Rath.

-versus-

1. Union of India, represented by
the Secretary, Ministry of Finance,
Department of Revenue, Government of India,
New Delhi.

2. Commissioner, Central Excise & Customs,
Rajaswa Vihar, Bhubaneswar-751 004.

... Respondent

For the respondents - Mr.U.B.Mohapatra.

ORDER

Somnath Som
8.12.97

SOMNATH SOM, VICE-CHAIRMAN

In this application under Section 19 of Administrative Tribunals Act, 1985, the applicant has prayed for a direction to the respondents to complete the departmental inquiry against him and finally dispose of the proceedings before 30.9.1995 which was his date of superannuation, failing which, the applicant has prayed that the proceedings should be quashed and all the retiral benefits should be allowed to him.

2. Facts of this case, according to the application, are that the applicant was a Superintendent, Group-B, Central Excise & Customs Department, from 7.2.1983.

A disciplinary proceeding was initiated against him in order dated 6.5.1994. The charge was that while he was functioning as Superintendent of Central Excise, Cuttack-II Range, during the period from 31.5.1989 to 5.6.1992 he wrongly allowed MODVAT credit to the tune of Rs.1,02,091.50 to M/s Konark Malleables (P) Ltd. without verifying the genuineness of the MODVAT claim of the party, which was put forth on the basis of false and fabricated documents; thereby the applicant caused loss to the tune of the above amount to Government. Commissioner for Departmental Inquiries, Central Vigilance Commission, was appointed to enquire into the charge. Preliminary hearing was held on 26.8.1994. But as the matter was not finalised, the applicant in his representation dated 14.11.1994 to the Commissioner for Departmental Inquiries, prayed for early completion of the enquiry. As no action was taken on that, he has come up before the Tribunal in the O.A. with the prayer referred to above.

3. Respondents in their counter have mentioned that the applicant prayed in his letter dated 5.9.1994 to permit him to engage a lawyer and this was allowed. The Commissioner for Departmental Inquiries had fixed 5.9.1995 and 6.9.1995 as the dates for regular hearing and the applicant was directed to appear before the inquiring authority on the above dates. The applicant sent a telegram for changing the venue of hearing from New Delhi to Cuttack. In reply, he was intimated on 30.8.1995 that the venue cannot be changed. Thereafter, the applicant asked for adjournment of hearing from 5.9.1995 to 20.9.1995. The respondents have stated that the applicant is himself responsible for delaying the inquiry and on that ground, they have opposed the prayer of the applicant.

*Submitted
8.12.97*

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4. The applicant has filed a rejoinder in which he has submitted that the order dated 8.8.1995 fixing the dates of hearing on 5.9.1995 and 6.9.1995 was sent by registered post on 9.8.1995 and the letter was delivered to the applicant only on 5.9.1995. As such it was not possible for him to attend the inquiry at New Delhi on 5.9.1995 and 6.9.1995. Moreover, the applicant and his defence counsel fell ill. But the Commissioner for Departmental Inquiries did not adjourn the inquiry, held it ex parte and completed the inquiry. It is submitted by the applicant in M.A.No.568/97, arising out of this O.A., that against the report of ex parte inquiry, the applicant submitted his representation on 6.12.1995 in consideration of which Commissioner, Central Excise & Customs, Bhubaneswar, in his order dated 11.9.1996 (Annexure-3 to M.A.No.568/97) remitted the case to Commissioner for Departmental Inquiries for de novo inquiry. The case of the applicant is that after this order for de novo inquiry, no further progress has been made.

5. We have heard the learned lawyer for the petitioner and the learned Additional Standing Counsel appearing on behalf of the respondents. In the O.A., the prayer is for a direction to complete the inquiry before 30.9.1995. It is seen that Commissioner for Departmental Inquiries did hold and complete the inquiry on 5.9.1995 and 6.9.1995. It is only at the instance of the applicant that the report of ex parte inquiry has been set aside and fresh inquiry has been directed in order dated 11.9.1996. In view of the above, we find no reason for quashing the inquiry which is now pending. But the applicant's case is that from

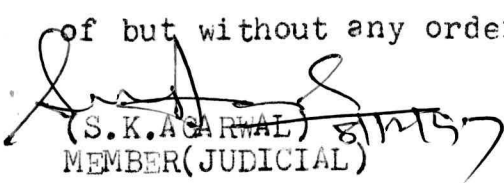
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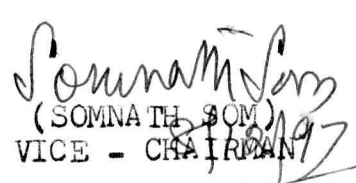
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11.9.1996 no further progress has been made in this inquiry. As the applicant has already retired, it is proper that the inquiry against him should be completed expeditiously. In consideration of the above, we direct that the inquiry should be completed, within a period of three months from the date of receipt of copy of this order, by the Commissioner for Departmental Inquiries. We note that the Commissioner for Departmental Inquiries has not been made a party in this case. In view of this, respondent no.2 is directed to bring this order to the notice of the Commissioner for Departmental Inquiries forthwith. The learned lawyer for the petitioner also prayed that a direction should be issued to hold the inquiry at Cuttack instead of New Delhi as both the applicant and his defence counsel are old and ailing. We do not think that it would be proper for us to issue a direction to this effect. Commissioner for Departmental Inquiries would be having other cases in his file and it is for him to take a view about the venue of the inquiry. In consideration of the above, we direct that the applicant should make a representation, within seven days from the date of receipt of copy of this order, to the Commissioner for Departmental Inquiries for holding the inquiry at Cuttack. The Commissioner for Departmental Inquiries will consider the representation sympathetically and pass appropriate orders.

6. With the above direction, the O.A. is disposed of but without any order as to costs.


(S.K. AGARWAL)
MEMBER (JUDICIAL)


(SOMNATH SOM)
VICE - CHAIRMAN