IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,JODHPUR BENCH,
J O D H P U R

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Date of order:04.4.2000.

1. O.A.No.270/99
2. O.A.No.313/99
3. OA No .314/99
4. O.A.No.315/99
5. O.A.No.316/99
6. O.A.No.328/99

P.R.Paliwal S/o Late Jagram Das Paliwal, aged about 48 years R/o 214 Pal Link Road, Opposite Barkat Manzil,Jodhpur at present employed on the post of Inspector, Customs in the office of Additional Commissioner, Kuchaman Bungalow, Near Panch Batti, Ratanada, Jodhpur.

Applicant in O.A.No.270/99

Arun Goyal S/o Late Shri H.N.Goyal aged about 31 years, R/o C/o Shri P.R.Paliwal, 214, Pal Link Road, Opposite Barkat Manzil, Jodhpur, at present employed on the post of Inspector Customs in the office of Additional Commissioner, Kuchaman Bungalow, Near Panch Batti, Ratanada,Jodhpur.

Applicant in O.A.No.316/99

K.J.Nazareth S/o Shri R.Nazareth, aged about 31 years,R/o Qtr No. 9, Custom Colony, Panch Batti, Ratanada, Jodhpur, at present employed on the post of Inspector Customs in the office of Additional Commissioner, Kuchaman Bungalow, Near Panch Batti, Ratanada, Jodhpur.

Applicant in O.A.No.315/99

S.S.Jhajharia S/o Shri Bhana Ram aged about 35 years, R/o Qtr.No. 5, Custom Colony, Panch Batti, Ratanada, Jodhpur, at present employed on the post of Inspector Customs in the office of Additional Commissioner, Kuchaman Bungalow, Near Panch Batti, Ratanada, Jodhpur.

Applicant in O.A.No.314/99

P.Morwal S/o Shri M.C.Morwal aged about 33 years, R/o Qtr. No. 3, Incometax Colony, Paota, Jodhpur, at present employed on the post of Inspector,Customs in theoffice of the Additional Commissioner, Kuchaman Burgalow, Near Panch Batti, Ratanada, Jodhpur.

Applicant in O.A.No.313/99

P.S.Detha S/o Shri R.S.Detha, aged about 37 years,R/o Dhukia Sadan, Sector 19, Basant Vihar, Behind Krishi Mandi Sikar, at present employed on the post of Inspector in the office of Central Excise Division, Bajaj Road, Sikar.

Applicant in O.A.No.328/99

versus

1. Union of India through the Secretary to Government of India, Ministry of Finance, Department of Revenue, North Block, New Delhi.

2. Additional Commissioner (Personnel and Vigilance), Cadre Control Unit, Central Excise Commissionerate, Jaipur - I, Statute Circle, C-Scheme, Jaipur.

3. The Commissioner of Customs, Custom Commissionerate, Jaipur, Statute Circle, C-Scheme, Jaipur.

4. Chairman, Central Board of Excise and Customs, North Block, New Delhi.

Respondents in all the Six O.As.

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CORAM :

HON'BLE MR.A.K.MISRA, JUDICIAL MEMBER

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

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Mr.J.K.Kaushik, Counsel for the Applicants.
Mr.Vineet Mathur, Counsel for the Respondents.

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PER HON'BLE MR.A.K.MISRA :

In all these six cases the controversy involved and the relief claimed by the applicants are common, therefore, these applications are disposed of by a common order.

2. The applicants have filed individual O.A. with the prayer that the impugned order dated 17.6.99 (Annex.A/1), Chargesheet under Rule 14 of CCS(CCA) Rules, 1965 and all

consequent proceedings including the orders Annexs.A/2 and A/3 dated 23.8.99, appointment of Inquiry/Presenting Officer, may be declared illegal and be quashed. In the alternative, the applicants have prayed that the competent authority may be directed to take-up the matter with the Government for nomination of ad hoc disciplinary authority by Presidential order and to complete the proceedings in accordance with the rules with all consequential benefits. After hearing the learned Advocate for the applicant, Dasti notices were ordered to be issued to the respondents. Interim Relief to the following effect was also passed in each of the cases :-

> "We hereby order that till the next date, the respondents authorities may not pass any final order in the inquiry which has been challenged before us."

3. The above mentioned interim relief is continuing till date.

4. The respondents have filed their reply in which it is stated that the O.As are premature. Merely serving of a chargesheet on the applicants does not give any cause of action for such O.As. It is also alleged by the respondents that policies are formulated for better administration by the competent authorities. Joint representation made by the applicants amounts to mis-conduct and subversive of discipline and consequently disciplinary action has been initiated against the applicants which is as per rules and Government orders. The applicants have not stated anything so as to come to a conclusion that the inquiry would not be conducted as per procedure. No instance of malafides have been cited so as to conclude that the inquiry would not be fair. The respondents have prayed for dismissal of the O.As.

5. We have heard the learned counsel for the parties and have gone through the files.

6. It is stated by the applicants that the normal tenure of posting of Inspector at Jodhpur is two years. There has been practice of asking options before completion of the tenure i.e. two years. But during the current year there has been deviation from the norms and special favour has been extended to some favourities by the authorities in power. The applicants in particular and few others similarly situated persons submitted a detailed and self-explanatory representation dated 24.5.99 to the respondent No.4. This action of theapplicants annoyed the concerned authorities and show cause notices were issued to the applicants and others. Applicants sought time for submitting explanation which was refused and applicants were served with a chargesheet. The applicants apprehend that they will not get fair deal. The action of the respondents is full of prejudice and arbitrary in nature and has been initiated by the concerned authority against whom facts as mentioned in the representation were stated and, therefore, the action deserves to be quashed.

7. We have considered the rival arguments. In this respect, we would like to quote the Circular No. 305 dated 21.2.1967, issued by the Government of India, which reads as follows :-

> "Joint representation from Government servants to be viewed as subversive of discipline — A question was raised whether Government servants could submit joint representation in matters of common interest and if so whether these representations should be entertained by Government. The matter was examined in consultation with the Ministry of Home Affairs and it has been held that making of joint representation by Government servants should be viewed as subversive of discipline and such representations should not,

12

therefore, be entertained. Every Government servant making a representation should do so separately and in his own name."

8. From the above Circular, it appears that joint representation in matter of common interest is treated as subversive of discipline and consequently the applicants have been chargesheeted. It cannot be said that the chargesheet served on individual applicant is absolutely baseless and is mala fide one. At this stage, it cannot be said as to what view would be taken by the disciplinary authority ultimately, therefore, the apprehension of the applicants that they would not get a fair deal, has no foundation in our opinion. It was argued by the learned counsel for the applicants that the respondents be directed to take action for appointment of ad hoc disciplinary authority as the present disciplinary authority may not be able to deal with the matter fairly as the representation is relating to the departmental policy of transfer and absence of specific policy may be taken to be an allegation against the seniors. We have considered this aspect also. We do not think that respondents are required to be directed at this stage for taking steps relating to appointment of ad-hoc disciplinary authority. If during the course of inquiry or disciplinary action, the applicants feel aggrieved in this regard they are free to agitate the matter at the appropriate level for appropriate orders. Any order by us in this regard would be only conjuctural or based on surmises, therefore, alternative prayer of the applicants has no substance.

9. In view of the above discussions, we are of the opinion that all these Original Applications are premature and devoid of any merit for interference in the

disciplinary action which is being taken by the department. The Original Applications deserve to be dismissed.

10. Therefore, all the Original Applications are dismissed as premature. The Interim Order passed in these Original Applications shall stand vacated.

11. There is no orders as to cost.

Gopal Singh

(GOPAL SINGH)
Administrative Member

5/4/2000

(A.K.MISRA)
Judicial Member

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mehta

Lib 13/4

Copy Received in respect of
OA 270/99, 313/99, 314/99, 315/99,
OA 316/99 and OA 328/99.

(Vinit Mathur)
Advo
13/4/2000

Six copies received
on 17/4/00

Part- II and III destroyed
in my presence on 16.10.06
under the supervision of
section officer (j) as per
order dated 23.1.2006

Section officer (Record)