

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO. 79/2002

FRIDAY, THIS THE 9TH DAY OF JULY, 2004.

C O R A M

HON'BLE MR.K.V. SACHIDANANDAN, JUDICIAL MEMBER
HON'BLE MR. H.P.DAS, ADMINISTRATIVE MEMBER

K.G. Rajan
Superintendent of Central Excise
Special Customs Preventive Unit
Alappuzha.

Applicant

By Advocate Mr. CSG Nair

Vs.

1. Additional Commissioner of Central Excise
& Customs, Cochin Commissionerate
Central Revenue Buildings,
I.S.Press road,
Cochin-682018

2. Commissioner of Central Excise & Customs
Cochin Commissionerate
Central Revenue Buildings
I.S. Press Road,
Cochin-682018

3. TheMember (P&V)
Central Board of Excise & Customs
North Block
New Delhi-110 001

4. Union of India represented by the Secretary
Department of Revenue
North Block
New Delhi-110 001.

Respondents

By Advocate Mr. C. Rajendran, SCGSC

The Application having been heard on 6.4.2004, the Tribunal
delivered the following on 9.7.2004.

O R D E R

HON'BLE MR. H.P. DAS, ADMINISTRATIVE MEMBER

The applicant K.G. Rajan, a Superintendent of
Central Excise at Special Customs Preventive Unit, Alappuzha
is before us aggrieved by the imposition of the minor penalty
of 'censure' by the disciplinary authority, rejection of his
appeal against the disciplinary order and rejection of his
revision petition against the Appellate order. The main

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ground for the grievance is that the disciplinary authority imposed the penalty despite exoneration by the Inquiry Authority and both Appellate and Revisional authorities upheld the punishment of the disciplinary authority without application of mind and without passing any reasoned order.

2. The applicant, while working as Inspector of Central Excise in the Commissionerate of Cochin, was charged of misusing official position, making false entries in Tour Diary and preferring false claims in the TA Bill, by A1 memo dated 30.5.1997. An enquiry was conducted and A3 enquiry findings exonerated the applicant of all charges. The disciplinary authority however found the applicant guilty of charges relating to false TA claims and imposed the minor penalty of 'censure' by A4 order, giving time of 15 days for representation against the order. The representation of the applicant was however rejected by the disciplinary authority and the penalty was confirmed by A6 order. Aggrieved by the penalty order, the applicant submitted an appeal to the second respondent on 15.7.1998. The appeal was rejected by A-10 orders. The applicant submitted a revision petition to the third respondent, which was also rejected by A-12 order dated 11.2.2000.

3. Heard. The learned counsel for the applicant, in a pointed reference to XT-1 Diary (A-7) argued that the fact of availing holidays on 9.3.96 and 10.3.96 had been recorded in the Diary and it was the responsibility of the Bill passing authority to check the details. The learned counsel for the respondents rebutted this by referring to the entries in the Bill itself made by the applicant and showed how 30 days have

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been claimed for Daily Allowance with an entry at the bottom of the first page to the effect that the applicant is eligible for DA on all days. He argued that it was the primary responsibility to the applicant to have claimed only for the days he was entitled, omission on the part of the bill checking authority after the bill was submitted would not undermine the gravity of this falsehood perpetrated deliberately to derive non-entitled financial benefit. The learned counsel for the respondents further pointed out that in A-8 bill form page 2 provided the space to indicate the dates of absence on holidays or on leave from the place of normal halt, and the applicant had scored out the entire page without filling up the column. This could mislead the Accounts Section that checked the bill. The learned counsel for the applicant argued that the applicant had refunded the overpayment on detection of the error and that was the reason why even the enquiry officer had found the charge unsustainable. To this, the learned counsel for the respondents replied that subsequent refund did not in any manner wash away the fact that the applicant had submitted a false bill and that was the exact reason why the disciplinary authority had disagreed with the findings of the Inquiry Authority. During the course of hearing the learned counsel for the applicant submitted a statement as to show that his seniority has been affected due to the penalty of censure, as it led to the postponement of his promotion. In the OA however, no averments to this effect have been made or implied.

4. On the basis of the evidences provided and the arguments presented by the counsel of the parties, we find

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substance in the stand of the respondents that the applicant's conduct was not free of blemish. The disciplinary authority, for good reasons, has disagreed with the findings of the Inquiry Authority. The penalty memo is a reasoned order and we have no ground to interfere with that. The Appellate Authority has not only passed a reasoned order, he has categorically stated that the refund of the amount overpaid was not a voluntary action, it was under duress as the explanation of the Examiner of Accounts was called for on detection of the excess payment. We find no flaw in the Appellate order. The revisional authority too has passed a reasoned order taking care to note each point raised in the petition, and responding to those in his orders rejecting the review petition. We also find no tendency on the part of any of the authorities to take a biased view of the charges on the proceedings relating to it. It is evident from the records that the first charge which related to misuse of official position in threatening a public servant on duty, and which could have even become a more serious charge, has been held as not proved at all levels without further probe. The authorities concerned have acted within their respective competencies and fairly judiciously. We find no reason to interfere.

5. In the result the OA being without any merit is dismissed. No order as to costs.

Dated 9.7.2004

H.P.D

H.P. DAS
ADMINISTRATIVE MEMBER



K.V. SACHIDANANDAN
JUDICIAL MEMBER

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