

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

O.A. NO:425/2005

LUCKNOW, THIS THE 7TH DAY OF SEPTEMBER, 2005.

**HON'BL SHRI SHANKAR RAJU, MEMBER (J)
HON'BLE SHRI S.P. ARYA, MEMBER (A)**

Yasho Verma aged about 52 years son of Sri I.D. Verma r/o 3/76-Jatwara Kadeem, Farrukhabad posted as Inspector in the Office of the Assistant Commissioner, Central Excise Division, Farrukhabad under the territorial jurisdiction and control of the Additional Commissioner, Central Excise Commissionerate, 7-A, Ashok Marg, Lucknow (U.P.)

..Applicant

By Advocate: Sri R.C. Saxena

Versus

1. Union of India, through the Secretary to the Govt. of India, Ministry of Finance, Department of Revenue, North Block, New Delhi.
2. The Commissioner, Central Excise Commissionerate, 38- M.G. Marg, Allahabad.
3. The Assistant Commissioner/ Deputy Commissioner, Central Excise, Raebareili.
4. The Additional Commissioner, Central Excise, Lucknow.
5. The Commissioner, Central Excise Commissionerate, Sarvodaya Nagar, Kanpur.

..Respondents

By Advocate: Sri S.P. Singh for Sri S.K. Awasthi.

ORDER

BY HON'BLE SHRI S.P. ARYA, MEMBER (A)

The applicant by this O.A. seeks for quashing the order dated 29.3.2005 passed by respondent No. 5 (Annexure No.1) by which the applicant has been compulsory retired with immediate effect and also to quash the order dated 24.3.98 instituting the departmental proceedings (Annexure A-2) and charge sheet and inquiry report.

2. We have heard learned counsel for the parties.
3. A preliminary objection was raised by the counsel for the respondents that O.A. cannot be filed in this bench in view of the Rule 6 of the CAT (Procedure)Rules 1987 as the cause of action has not arisen within the territorial jurisdiction of this Bench.
4. Upon hearing the counsel for the parties and perusal of records on file, we find that the charge sheet has been served on the applicant at Sitapur

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address (Anneuxre 3). Sitapur falls within the jurisdiction of Lucknow Bench, therefore, we find that the O.A. is entertainable in this bench.

5. Counsel for applicant has stated that the order instituting the inquiry itself is without jurisdiction. No appeal has been filed against to the punishment order. The statutory departmental remedy available to the applicant has not been exhausted as required under Rule 20 of the AT Act, 1985. In this view of the matter, we are of the considered view that the applicant should file an appeal first and in case he is still aggrieved on decision of such appeal, he may approach appropriate forum.

6. Accordingly applicant is directed to file an appeal to the appellate authority within a period of 10 days and on receipt of such appeal, the appellate authority would decide the appeal by a reasoned and speaking order within a period of 2 months and communicate the same to the applicant. The order dated 29.3.2005 would not be given effect to in the meantime, if the same has not been effected. Applicant would be liberty to approach the appropriate forum, if his grievance still persists.

6. With the above directions, O.A. is disposed of without no order as to costs.

24.3.14

(S.P. ARYA)
MEMBER(A)

S. Raju

(SHANKAR RAJU)
MEMBER(J)

HLS/-