

(11)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6  
PRESCOT ROAD, BOMBAY 400001

OA NO. 557/88

S N Parwal

Applicant

V/s

Union of India  
through Secretary  
Min. of Finance  
Dept. of Revenue  
New Delhi & Ors.

Respondents

Coram: Hon. Shri Justice M S Deshpande, Vice Chairman  
Hon. Shri M Y Priolkar, Member(A)

APPEARANCE:

Mr. S Natarajan  
Counsel  
for the applicant

Mr. M I Sethna  
Counsel  
for the respondents

ORAL JUDGMENT:

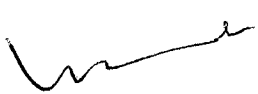
DATED: 7.10.93

(Per: M S Deshpande, Vice Chairman)

Heard Mr. Natarajan, counsel for applicant and  
Mr. Sethna, counsel for respondents.

The applicant challenges the finding holding  
him guilty of peremptory examination of four cases  
which were declared to be of Indian Chilli powder and  
the penalty of reduction of pay by four stages.


The applicant was working as Customs Appraiser  
and while he was posted on overtime on 19.6.80 as a  
Supervisory officer, the examination of four cases  
declared to contain Indian chilli powder was carried  
out by the examiner Shri Sidhwani. The examination  
revealed that in addition to chilli power there was



some other type of power in the consignment. Shri Parwal neither ordered 100% examination of the consignment as per the instructions on the subject nor took any steps to identify the other power contained in the consignment with the result that when the cases were checked at London some narcotics in the form of Hashish were found to have been imported in these four cases. The other charge was deliberate flouting of the instructions, but the applicant is absolved of that charge and nothing need to be said with respect to that charge.

The submission of Shri Natarajan, learned counsel for the applicant was that the applicant's duty was only to examine the cases which were to be passed for export and once he was satisfied that the contents did not contain the goods of the declared nature then it was not necessary for the applicant to carry out a detailed examination as his job was complete. This contention did not find favour either with the Inquiry Officer, the Disciplinary Authority or with the Appellate Authority. The Appellate Authority modified the penalty which was imposed by the Disciplinary Authority by reducing the punishment in view of the mitigating circumstances.


The instructions regarding the examination of the goods show that physical examination includes verification of the contents of the packages as described in the invoice and shipping bill with regard to description and quantity and absence of other goods, the examination of marks on the goods and their wrappings; quantities should be checked as far as possible in so far as they can be verified by counting and if the examination order refers to only part of the consignment, the rest of the consignment should be inspected. The instructions also require the examining officers to apply highest degree of check that is practicable and ordinarily when practicable, go down to the bottom of the packages. Shri Natarajan then urged that the examination orders of the export cargo did

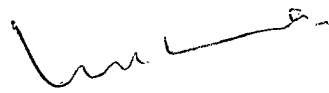


not require all these if the goods were not passed for export. But the latter portion of the clause to which he referred does not support his contention because it also mentions examination of not only of shipping bills and the report but also that the examination should be conducted for the purpose of verifying the amount of duty or cess if any to be paid.

It is not disputed that in the present case the package did not contain only chilli powder but also some other powder which the applicant identified as Dhania Powder. According to Shri Natarajan, the applicant's duty was over once he found that the description given in the declaration did not conform to the contents and the goods were not passed for export.

The stage of passing the goods for export and the stage which would follow the examination of the goods, to which we have already referred to above, to what examination includes. Once there was a doubt regarding the contents it was the duty of the applicant also to go to the bottom and make a thorough examination. We are not impressed with the submission that merely by refusing to pass the goods the applicant can be absolved from performing his duty. This was the view that was taken by the departmental authorities. We find that there was sufficient material on record available before the departmental authorities. It was urged that the Appellate Authority did not give a hearing to the applicant. We find that the Appellate Authority, which also involved consultation with the Union Public Service Commission, has considered the matter in all its aspects. A personal hearing, in view of the stand taken before us would not be of any avail to the applicant in any way and it would be a futile exercise to send back the matter to the Appellate Authority for its reconsideration. In the result, we see no merit in the application and dismiss it with no order as to costs.

  
(M Y Priolkar)  
Member(A)

  
(M S Deshpande)  
Vice Chairman