

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

O.A.No. 47
T.A.No. -

1986 (Misc. Petitions
198- No. 56/86 & 58/86)

DATE OF DECISION 21-11-1986

Prabhakar G. Ghonge Applicant/s.

Mr. K. K. Pillai Advocate for the Applicant/s.

Versus

Central Board of Excise & Respondent/s.

Customs & Others

Shri S. R. Atre for Mr. P. M. Advocate for the Respondent(s).

Pradhan

CORAM:

The Hon'ble Vice-chairman Shri B.C. Gadgil

The Hon'ble Member (A) Shri J.G. Rajadhyaksha

1. Whether Reporters of local newspapers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporter or not ? *No*
3. Whether to be circulated to all Benches? *No*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

O.A. No. 47/86
Misc. Petition No. 56/86 & 58/86.

Prabhakar G. Ghone,
203, Hind Finance Flats,
West High Court Road,
Rani Laxmi Nagar,
Nagpur - 440 002.

... Applicant.

v/s.

1. The Secretary,
Central Board of Excise & Customs,
North Block,
New Delhi.

2. The Secretary,
Union of India,
Ministry of Finance,
North Block,
New Delhi.

3. The Collector,
Central Excise,
Nagpur Collectorate,
Nagpur.

4. The President of India,
The Appellate Authority,
Central Excise Collectorate,
P.C.Bag No.10,
Indore, (M.P.)

5. M.S. Bindra,
34 Lodhi Estate,
New Delhi - 110 003.

... Respondents.

Coram: Hon'ble Vice-Chairman B.C.Gadgil,
Hon'ble Member J.G.Rajadhyaksha.

Appearance:

1. Shri Pillai for the applicant.
2. Shri S.R. Atre for Shri P.M. Pradhan for Respondents

JUDGMENT

(Per B.C. Gadgil, Vice Chairman)

Dated: 21-11-1986.

The applicant who was Office Superintendent in the Central Excise and Customs is challenging the orders in the departmental inquiry whereunder he has been removed from service. This application is fixed on 29-12-1986 for reply of the respondents to the

Misc.Petitions No.56/86 and 58/86. One of them is for amendment of the application while the other is for the production of certain documents. The applicant along with his Advocate Mr.Pillai filed an application today before the Tribunal that the matter may be taken on board for decision. That application is numbered as Misc.Petition No. 102/86. The reason for making such application is as follows :

A departmental inquiry against the applicant and certain other persons including Shri K.P.V.Menon was initiated on the basis of an incident that took place in 9-2-1975. There was a raid at the house of Sukhdeo Ramratan Malani by a raiding party of seven persons which included the applicant and Shri K.P.V.Memon. Departmental inquiry was initiated against six persons with an allegation that at the time of the raid a bribe of Rs.40,000/- was demanded from Sukhdeo and that while making the panchnama of the gold ornaments that were found in the house of Sukhdeo, 2 Akbary gold mohars and some other gold ornaments have been removed, without including them in the panchnama, by the raiding party. Departmental inquiry was held. The disciplinary authority passed an order dated 7-8-1981 removing the applicant and K.P.V.Menon and certain other persons from service. Of course separate orders have been passed for each officer. The applicant filed an appeal and it was dismissed on 12-12-1983. Similar appeal was filed by K.P.V.Menon. It was also dismissed on the same day. Menon had filed original application No.92/86 in this Tribunal. We have decided that application today. The appeal that was decided on 12-10-83 has been remanded by us to the appellate authority for decision

after giving an opportunity to the applicant to be heard. There is also another direction that the appellate order should be a speaking order giving ~~for decisions on~~ reasons to all the points that are raised in the appeal.

Mr.Pillai contended that the appellate order in this application is also cryptic and that, therefore, it would be necessary that the said appeal should be remanded as has been directed in the case of - K.P.V.Menon. The applicant by his application has made such prayer. We have heard Mr.Pillai and Mr.S.R. Atre. In our opinion the appellate order in this matter is similar to the one that was passed in application No.92/86 and, consequently, the said appeal will have to be remanded to the appellate authority. Of course, we would like to observe that we are not deciding the merits of the case and the applicant would be at liberty to agitate them before the appellate authority. It is needless to say that as suggested by Mr.Pillai the applicant's right to approach the revisional authority and this Tribunal would be intact if the applicant, unfortunately, fails in the appeal.

In view of the orders, which we intend to pass in this appeal, the two Misc.Petitions will not survive and are, therefore, to be disposed of without any order.

The application is partly allowed. The appeal filed by the applicant on 16-8-81 is remanded to the appellate authority i.e. The Central Board of Excise and Customs for deciding after giving an opportunity to the applicant of being heard. Of course, this does not mean that the appeal cannot be decided if the applicant would not remain present on the day fixed

for hearing. The appellate authority is further directed to give a speaking and reasoned order so as to cover all the points that have been raised by the applicant in the appeal memo. The appeal deserves to be expeditiously decided, say within a period of 3 months from today.

Misc. Petitions Nos. 56/86 and 58/86 are disposed of as they do not survive. In view of this judgment no separate orders on Misc. Petition No. 102/86 are necessary.

Parties to bear their own costs.

B.C. Gadgil
(B.C. GADGIL)
VICE-CHAIRMAN

J.G. Rajadhyaksha
(J.G. RAJADHYAKSHA)
MEMBER