

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 91 of 1999.

Dated this Friday, the 13th day of August, 1999.

Abhinav Singh, _____ Applicant.

Shri G. K. Masand, _____ Advocate for the
applicant.

VERSUS

Union of India & Another, _____ Respondents.

Shri M. I. Sethna alongwith _____ Advocate for the
Shri V. D. Vadhavkar, _____ respondents.

CORAM: Hon'ble Shri Justice R. G. Vaidyanatha, Vice-Chairman.

Hon'ble Shri B. N. Bahadur, Member (A).

(i) To be referred to the Reporter or not ? *✓*

(ii) Whether it needs to be circulated to other Benches
of the Tribunal ? *✓*

R. G. Vaidyanatha
(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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Abhinavsingh,
Appraiser,
Residing at -
D-506, AWHO Sector-9,
Nerul, New Bombay. Applicant

(By Advocate Shri G. K. Masand)

VERSUS

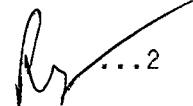
1. Union of India through
The Secretary,
Ministry of Finance,
Department of Revenue,
(Central Board of Excise & Customs),
New Delhi. Respondents.
2. Commissioner of Customs,
New Customs House,
Ballard Estate,
Mumbai. Respondents.

(By Advocate Shri M. I. Sethna alongwith
Shri V. D. Vadhavkar).

OPEN COURT ORDER

PER : Shri R. G. Vaidyanatha, Vice-Chairman.

This is an application challenging the order of suspension dated 14.01.1999. Respondents' counsel has orally opposed the application and has placed the necessary file before us. We have heard both counsel regarding admission.


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2. The applicant's grievance is, that on the allegation of contemplated disciplinary enquiry he came to be placed under suspension by order dated 14.01.1999 and even though seven eight months have lapsed, till today no charge-sheet has been issued and therefore, the order of suspension has to be quashed. Respondents' counsel submits that the Customs Department and the Investigation Team did investigate against the applicant and collected some materials and found that number of shipping bills have been forged and fabricated by the applicant. In view of this, the Special Investigation Team has now referred the case to C.B.I. for further investigation and that is why no departmental charge-sheet has been issued yet against the applicant.

3. Though respondents have not filed their reply, they have placed the necessary file before us which shows that some investigation has been done against the applicant and some material has been gathered about fabrication and forgery of number of D.E.B.P. scripts. It is now stated that the Special Investigation Team has marked the papers for further investigation by the C.B.I. That is how the charge-sheet has not yet been filed against the applicant.

4. The scope of judicial interference in a matter like this is very limited. The competent authority has powers to suspend an official pending contemplated disciplinary enquiry or even



criminal case. Now the material shows that there are serious allegations against the applicant. The matter is still under investigation. Therefore, this is not a stage at which the Tribunal should interfere and quash the order of suspension.

The Learned Counsel for the applicant invited our attention to an unreported judgement of a Division Bench of this Tribunal dated 21.01.1996 in O.A. No. 676/92 wherein the Tribunal Quashed the order of suspension only on the ground of delay in filing the charge-sheet. But when the matter was taken up by the State before the Supreme Court, the Supreme Court granted further time to the Government to complete the investigation and if the complicity of the applicant is involved and a charge-sheet is issued within three months, then the suspension could be continued. Therefore, the order of the Tribunal came to be modified by the Supreme Court.

In a matter like this, there cannot be a straight jacket formula that if a charge-sheet is not filed within three months or six months, the suspension should be revoked. It all depends upon the nature and gravity of the charge and circumstances of the case. In the present case, there are serious allegations against the applicant about forgery and fabrication of D.E.B.P. scripts and the matter is still under investigation and therefore, we feel that this is not a stage at which the Tribunal can interfere to quash the order of suspension.

5. Another grievance was made by the Learned Counsel for the applicant that subsistence allowance is not paid to the applicant though the order of suspension was issued on 14.01.1999. Respondents' counsel, on the basis of the records, submits that the applicant has drawn the subsistence allowance in May, 1999 for the period prior to May, 1999 and subsequently cheque has been sent to the applicant towards subsistence allowance, since his place of Headquarter has been changed to Gwalior. In spite of this statement, we only observe that if any amount is not paid to the applicant towards subsistence allowance, the department should pay the same as early as possible.

6. Before parting with the matter, we only observe that in case the investigation is not complete by end of December, 1999, appropriate competent authority should review the case of the applicant on the basis of the records and then pass a specific order whether continuation of the suspension of the applicant is necessary or not.

7. In the result, the O.A. is disposed of at the admission stage subject to the above observations.

B. N. Bahadur
(B. N. BAHDUR)

MEMBER (A).

R. G. Vaidyanatha
(R. G. VAIDYANATHA)

VICE-CHAIRMAN.