

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 451/99

Date of Decision: 7.6.1999

Shri D.S. Karant

Applicant.

Shri G.K. Masand,

Advocate for
Applicant.

Versus

Union of India and others.

Respondent(s)

Shri Vadhavkar for
Shri M.I. Setma.

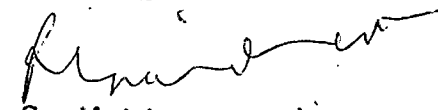
Advocate for
Respondent(s)

CORAM:

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

Hon'ble Shri. D.S. Baweja, Member (A)

- (1) To be referred to the Reporter or not? *NO*
- (2) Whether it needs to be circulated to other Benches of the Tribunal? *NO*


(R.G. Vaidyanatha)
Vice Chairman.

NS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH 'GULESTAN' BUILDING NO:6
PRESCOT ROAD, MUMBAI:1

Original Application No. 451/99

Monday the 7th day of June 1999.

CORAM: Hon'ble Shri Justice R.G. Vaidyantha, Vice Chairman
Hon'ble Shri D.S. Baweja, Member (A)

D.S. Karant
residing at
Quarter No. A-2,
Customs & Central Excise
Quarters, Katrak Road,
Wadala (West), Mumbai.

... Applicant.

By Advocate Shri G.K. Masand.

V/s.

The Union of India through
the Secretary, Ministry of
Finance, Department of Revenue
Government of India,
North Block, New Delhi.

The Chairman,
Central Board of
Excise and Customs,
North Block, New Delhi.

The Secretary,
Union Public Service
Commission, Dholpur
House, New Delhi.

... Respondents.

By Advocate Shri Vadhavkar for Shri M.I. Sethna.

ORDER (ORAL)

¶ Per Shri Justice R.G. Vaidyanatha, Vice Chairman ¶

This is an application challenging
further proceedings in the charge sheet dated
7.8.1995 and for consequential reliefs. The learned
counsel for the respondents opposes admission
and grant of interim relief. We have heard the
learned counsel for both sides.

2. The applicant is now challenging
further proceedings in the charge sheet dated
7.8.1995 on the ground that there is some
subsequent material which shows that the
allegation\$ against the applicant is false.

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The main charge against the applicant is that it is a case of fictitious informer in collusion with Mr. Nayar. Now the applicant's case is that Shri Dayananda Bangera has filed a Writ Petition in Karnataka High Court in 1998 claiming reward on the ground that he is the informer. Hence the charge against the applicant about fictitious informer falls to the ground.

3. In our view this contention of the applicant cannot be accepted. Whether it is a case of fictitious informer or Shri Dayananda Bangera is the real informer is a matter to be considered by the Disciplinary Authority on the basis of evidence produced by him. The defence of the applicant is that Shri Dayananda Bangera is not a fictitious informer. This cannot be a ground to stall the inquiry proceedings. The correctness of the allegation or otherwise of the charge sheet is a matter to be considered by the Disciplinary Authority and not by a Court or Tribunal.

4. The Supreme Court in a number of recent judgements has observed that a Court or a Tribunal should not interfere in the inquiry at the stage of charge sheet or during pendency of the enquiry, it is only after the final order is passed a judicial review can be availed. The scope of judicial review is very limited, only to see whether Principle of Natural Justice is followed or whether the rules of enquiry is followed or not. Therefore even at that stage we cannot go into the merits of the case unless it is a case of no evidence. The enquiry has been completed and the Enquiry Officer has given the report holding one charge is proved against the

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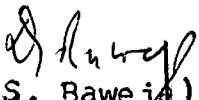
applicant and exonerating the applicant on the other two charges. The Disciplinary Authority has issued a Show cause notice to the applicant observing that all the charges are proved against the applicant. The applicant has also given reply to the Show cause notice. It may be that there is some delay on the part of the Disciplinary Authority in not passing final order. The learned counsel for the respondents pointed out that the delay is due to consultation with Vigilance and the U.P.S.C. Anyhow this is not a case where we can interfere at this stage.

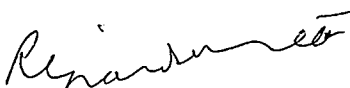
5. Another grievance made by the applicant is that inspite of the request for personal hearing the same has not been granted by the Dicisiplinary Authority. The learned counsel for the respondents pointed out that there is no provision under the Rules for such personal hearing by the Disciplinary Authority. By noticing the rival contentions we only observe that it is for the Disciplinary Authority to consider the request of the applicant for personal hearing.

6. Since the enquiry is pending for a long time, we feel that a direction should be given to the Disciplinary Authority to pass a final order with some time limit.

7. In the result the O.A. is disposed of at the admission stage with a direction to the Disciplinary Authority to dispose of Disciplinary

case against the applicant expeditiously, preferably within a period of four months from the date of receipt of this order. All contentions on merits are left open. No order as to costs.


(D.S. Baweja)
Member (A)


(R.G. Vaidyanatha)
Vice Chairman

NS