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CENTRAL ADMINISTRATIVE TRIBUNAL
GULESTAN BLDG.NO.6,PRESCOT ROAD, 4TH FLOOR.,
MUMBAI - 400 001,

REVIEW PETITION NO.88/95 in O.A.No.60/90.

DATED THIS 5th DAY OF JUNE, 1996.

CORAM : Hon'ble Shri B.S.Hegde, Member (J).

Hon'ble Shri M.R.Kolhatkar, Member (A).

B.I.Abraham (Shri G.S.Walia)

... Applicant

v/s.

Union of India & Ors.

... Respondents

and

Collector of Customs, Bombay
(Shri P.M.Fradhan)

... Review Petitioners

I O R D E R I

I Per Shri M.R.Kolhatkar, Member(A) I

This Tribunal by its orders dated 19/10/1994 disposed of the OA finally by directing that the enquiry against the applicant shall be completed within a period of 4 months and that no further extension will be granted in respect to the period of 4 months unless the department satisfies us that they have substantially complied with the direction to hold enquiry subject to the applicant cooperating with the enquiry.

2. MP-203/95 was filed by the respondents for grant of extension for a further period of 4 months for completing the enquiry. Reply to the MP was filed by applicant and after hearing both parties, we had passed the order dated 31/3/95 rejecting the MP. This order rejecting the NP is the subject of the present review petition.

3. The main reason adduced by the review petitioner/ original respondents is that delay in the enquiry was due to the fact that the applicant had insisted on inspection of original documents pending in the court of the Chief Metropolitan Magistrate and that on some pretext the applicant wanted the enquiry proceedings to be quashed but the

department had done the maximum to expedite the proceedings.

4. The original applicant/respondent in the review petition has opposed the review petition. Firstly, he has contended that the review petition has been filed by the Additional Collector of Customs who is an enquiry officer but who has no locus standi to file the review petition in as much as he had never filed earlier affidavits nor is he a party respondent.

5. We are not inclined to dismiss the review petition on this preliminary ground.

6. On merits, the counsel for the original applicant has contended that no valid points have been raised for entertaining the review petition and the review petitioner simply wants a re-hearing of the MP which was rejected by the Court. According to him, the question of inspection of documents and other matters mentioned in the M.P. are not relevant, because it is the duty of the enquiry officer to hear evidence on behalf of the disciplinary authority first which action was not even initiated.

7. We have considered the matter. In our order rejecting the M.P., we had recorded that pursuant to the order of the Tribunal dated 19.10.94, the enquiry officer was appointed on 24.11.95 after a lapse of one month and the preliminary enquiry appears to have been taken up on 8.2.95 after a lapse of 3 months and therefore we had seen no merit in the M.P.

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8. In the review petition, the grounds adduced by the review petitioner relate to delay caused by the applicant in the conduct of the enquiry prior to the date of passing of the order of Tribunal dated 19.10.94 which means that in the guise of challenging the order in MP passed on 31.3.95, the review petitioner is really seeking the review of the original order dated 19.10.94. This is not permissible. In any case, no grounds relatable to rules under order 47 of CPC, namely discovery of new and important matters, or evidence which, after the exercise of due diligence was not within the knowledge of the original respondents, or on account of some mistake or error apparent on the face of the record or any other sufficient reason have been made out.

9. Since, no grounds relatable to rules under order 47 of CPC, for review of our order dated 31.3.95 have been made out, the review petition is without merit and is therefore dismissed.

M.R. Kolahatkar

(M.R. Kolahatkar)
Member (A)

B.S. Hegde

(B.S. Hegde)
Member (J)

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Order/Judgment despatched
to 7/6/96
OL 7/6/96

7/6/96