

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH : MUMBAI

OA 751/1995

Mumbai this the 30th day of July, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J)
Hon'ble Smt. Shanta Shastry, Member(A)

Vittal Dhaku Kharat
resident of 52/2135/VII,
G.G.S. Colony, Antop Hill,
Bombay.
employed as Driver in the
Office of Asstt. Commissioner
Central Excise Division IX,
Bombay-II Commissionerate.

..Applicant

(None for the applicant)

VERSUS

1. Union of India through the
Secretary, Ministry of Finance,
Department of Revenue, N/Delhi.
2. Additional Commissioner (P&V)
Central Excise Bombay-II
Piramal Chambers, 9th Floor,
Jijibhoy Lane, Lalbaug, Parel
Bombay.
3. Deputy Commissioner (P & V),
Central Excise Bombay II,
Piramal Chambers, 9th Floor,
Jijibhoy Lane, Lalbaug, Parel,
Bombay
4. Smt. Lipika Mujumdar,
Deputy Commissioner Central
Excise C/O Secretary Central
Board of Excise and Customs,
North Block, New Delhi.
5. Shri Gowri Shankar the
Member Central Excise and
Customs and Gold Control Tribunal,
New Delhi.
6. Shri S.R. Narayanan the then
Collector Central Excise, Bombay-1,
now retired as Principal Collector,
Madras C/O Secretary, Central
Board of Excise and Customs, N/Delhi.

7. Shri U.G.Kulkarni,
Assistant Commissioner of Central
Excise Division VIII, Bombay-II
(The Inquiry Officer Sh.U.G.Kulkarni
is mentioned by name just for the
sake of identification)

8. Sh.S.X.J.Vasan, Deputy Collector
(P&V), Central Excise, Bombay-II,
Piramal Chambers, 9th Floor,
Jijibhai Lane, Lalbaug, Parel,
Mumbai. . . Respondents

(By Advocate Shri M.I.Sethna, learned
counsel through proxy counsel Shri
V.D.Vadhavkar)

O R D E R (ORAL)

(Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman(J)

In this application the applicant has prayed
for the following main reliefs:-

" 8(1) The Article No.3 of the chargesheet
may be directed to dropped altogether and so
also the direction for further inquiry in
respect of this Article of charge be quashed.

(2) The order dated 21.2.1995 passed under
Rule 15(1) of the CCS(CCA) Rule, 1965 be
quashed.

(3) The Respondent be directed to give a
copy of the I.O. report and further directed
to take final decision in the matter after
hearing the applicant".

2. As none has appeared for the applicant, we have
perused the documents on record, including the rejoinder
filed by the the applicant, and heard Shri
V.D.Vadhavkar, learned proxy counsel for the respondents.
Learned proxy counsel for the respondents submits that
as already stated in the reply filed by them, ^{that} the
copy of the Inquiry Officer's report has been given to
the applicant on 2.11.1996. They have further submitted

that the applicant will be given hearing in accordance with the relevant Rules and instructions before taking a final decision. Learned proxy counsel has submitted that the Department has yet to complete the departmental enquiry initiated against the applicant by Memorandum dated 5.9.1991. From this Memo., it is seen that three article of charges have been given as per the statement given as Annexure 1 of the article of charges. In view of the fact that the respondents have themselves stated that copy of the I.O's report has already been given to the applicant in Jan., 1996, part of the relief prayed for by the applicant in Paragraph 8(3) of the OA ~~8(3)~~ no longer survives.

3. Having regard to the facts and circumstances of the case and the judgement of the Hon'ble Supreme Court in **UOI Vs. Upendra Singh** (JT 1994(1)SC 658) that normally the Tribunal ought not to interfere at an interlocutory stage nor we have jurisdiction to go into the correctness or truth of the charges, we find no merit in the prayer of the applicant in Sub Para 1 of Para 8. Further, it is relevant to note that as there was no stay restraining the respondents from continuing with the disciplinary enquiry and the enquiry report has also been given to the applicant more than 5 years back, we see no good reasons justifying allowing the prayer in Para 8(1). In the circumstances, the prayer to drop the

charge No.3 in the Memo. of Articles of charges is rejected. In the facts and circumstances of the case , we do not also see any ground to set aside the order dated 21.2.1995 which is a memo. which had been issued to the applicant by the respondents proposing to hold an enquiry against him for remitting the case to the inquiry officer for further action in accordance with the provisions of the CCS(CCA) Rules, 1965. That prayer is also accordingly rejected.

4. It is, however, noted that the respondents have yet to complete the departmental enquiry proceedings after several years, even though they have been initiated against the applicant by Memo.dated 5.9.1991.

5. In the result for the reasons given above, the OA is disposed of with the following directions:-

The respondents are directed to take a final decision in the matter after giving a reasonable opportunity of hearing to the applicant in accordance with law, rules and instructions. Necessary action in this regard shall be taken within four months from the date of receipt of a copy of this order. In the circumstances of the case, applicant shall also co-operate in the proceedings to see that the same are completed within this period.

No order as to costs.

Shanta
(Smt. Shanta Shastri)
Member(A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice Chairman(J)