

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

O.A.No. 1136/94

Date of Order : 3.11.97

BETWEEN :

A.Suresh

.. Applicant.

AND

1. Union of India, Ministry of Finance, Dept. of Revenue, Rep. by its Under Secretary, New Delhi.
2. Member (Personnel & Vigilance), Central Board of Excise & Customs, New Delhi.
3. Collector of Central Excise-I, L.B.Stadium, Basheerbagh, Hyderabad.

.. Respondents.

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Counsel for the Applicant

.. Mr.M.Panduranga Rao

Counsel for the Respondents

.. Mr.N.R.Devraj

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CORAM:

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

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O R D E R

X As per Hon'ble Shri B.S.Jai Parameshwar, Member(J) X

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Heard Mr.M.V.Rama Rao for Mr.M.Panduranga Rao, learned counsel for the applicant and Mr.N.R.Devraj, learned standing counsel for the respondents.

2. Between 17.2.1988 and 15.5.1990 the applicant was working as Air Customs Officer, Sahara Air Port, Bombay. On 15.4.1990 he was on duty at the counter No.26 in Red Channel of the Airport.

It is alleged that there was some kind of negligence<sup>on the part</sup> of the applicant

*[Signature]*

in performance of the duties on that day.

3. The applicant was served with a memorandum of charge sheet dated 10.1.1991 (A-3). The applicant submitted his explanation to that charge sheet on 12.2.1991 and denied the ~~charge~~ ~~the disciplinary authority after considering his~~ explanation to that charge memo dropped the disciplinary proceedings vide order No.C.No.II/10A/1/91, dated 20.6.1991.

A show cause notice was issued wherein the respondents purporting to exercise the power under Rule 29(A) of CCS (CCA) Rules 1965 directed the applicant to show cause to why the order of the disciplinary authority dated 20.6.1991 could not be reviewed. A copy of the show cause notice is at Annexure-6. It is dated---- November 1992. The applicant submitted his explanation to the show cause notice.

5. The Member (Personnel & Vigilance) by his proceedings dated 16.3.94 stated that the order passed on review was against the order dated 20.6.1991 passed by the disciplinary authority and that the order was not under Rule 29(A) of the CCA Rules.

6. The 3rd respondent proposed to re-examine the case and issued notice dated 22.8.94 calling upon the applicant to submit his explanation within 10 days from the date of receipt of the said notice.

7. The applicant has filed this OA challenging the order No.17/94 (No.C-17018/13/92-Ad.V), dated 16.3.94 passed by the Respondent No.3 and the consequential notice dated 22.8.1994. His main contention in the OA was that the show cause notice was issued under Rule 29(A) but not under Rule 29 of the CCS (CCA) Rules but he was not given any opportunity before issuing

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the  
/show cause notice that now the respondents attempt to state that the show cause notice was infact issued under Rule 29 of CCS (CCA) Rules. For the notice dated 22.8.1994 the applicant submitted his explanation on 11.1.1995.

8. During the pendency of the OA the respondents amended the show cause notice dated Nil November 1992 (A-6) by the proceedings No.F.No.C-17018/13/92-Ad.V dated 29.9.1995.

9. Then the applicant filed M.A.549/97 praying permission of this Tribunal to challenge the order dated 29.9.1995 and accordingly to amend the prayer portion in the OA. Then we ~~directed~~ <sup>to state</sup> requested the respondents as to how they proceeded to amend the show cause notice dated Nil November 1992 when the matter was pending consideration before this Tribunal. On 7.8.1997 an additional affidavit was filed on behalf of the respondents stating that there was no intention on the part of the department to show any disregard by ignoring the orders of the Tribunal, ~~that~~ during the course of the examination of the case, some procedural lapses came to the notice of the Department, <sup>and</sup> that it was considered desirable to carry out the corrections by getting the ex post facto approval of the competent authority. Although such an approval was obtained as early as on 16.8.1995, no order bearing ~~date~~ <sup>was issued</sup> on the date was unsigned and hence received back without being delivered to the applicant for compliance that was subsequently issued on 26.10.1995.

10. Thus the show cause notice dated Nil November 1992 came to be amended by the corrigendu-m issued by the respondents dated 29.9.1995.

11. The applicant submitted that he had challenged show cause notice dated Nil November 1992 (A-6) passed under Rule 29 (A) of

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the CCS (CCA) Rules. Now by means of corrigendum dated 29.9.1995 the same has been amended and the respondents have issued the show cause notice in exercise of power under Rule 29 of CCS (CCA) Rules. The said action of the respondents has been accepted while passing the order in MA.549/97.

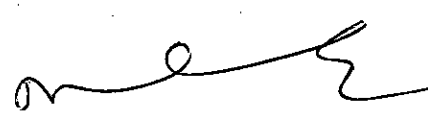
12. In that view of the matter the applicant directed to submit his explanation to the show cause notice dated

13. The applicant may if so advised submit a detailed representation including the contention raised in his letter dated 22.8.1994 for amending the show cause notice changing the provision of the CCA Rules.

14. On receipt of the reply the applicant take a decision on the reply given by the applicant to the show cause notice dated Nil November 1992.

15. With the above observations the OA is disposed of.  
No costs.

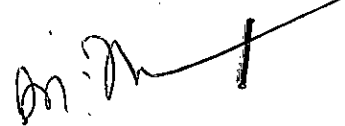
  
(B.S. JAI PARAMESHWAR )  
Member (Judl.)

  
( R.RANGARAJAN )  
Member (Admn.)

Dated : 3rd November, 1997

(Dictated in Open Court)

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D.R.

18/11/97  
(8)

TYPED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN . M.A.

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR :  
M. (J)

Dated: 3-11-97

~~ORDER/JUDGMENT~~

~~M.A./R.A./C.A. NO.~~

O.A. NO. 1136 / 94

~~Admitted and Interim Directions  
Issued.~~

~~Allowed~~

~~Disposed of with Directions~~

~~Dismissed~~

~~Dismissed as withdrawn~~

~~Dismissed for Default~~

~~Ordered/Rejected~~

~~No order as to costs.~~

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II Court

