

59

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No. 1136/96

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.

Counsel for the Applicant

.. Mr. M.Panduranga Rao

Counsel for the Respondents

.. Mr. N.R.Devraj

CORAM:

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

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

O R D E R

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

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 ^{on the part} of the applicant

Br

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 ~~the disciplinary authority after considering his~~ explanation to that charge memo dropped the disciplinary proceedings vide order No.C.No.II/104/1/91, dated 20.6.1991.

* * * * * ~~the disciplinary authority after considering his~~ 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

Se

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~~ ^{to state} 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, 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
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 corrigendum 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

Je

.. 4 ..

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 _____ 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 _____ 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.

15/11/97
(B.S. JAI PARAMESHWAR)
Member (Judl.)

15/11/97
(R.RANGARAJAN)
Member (Admn.)

31/11/97 Dated : 3rd November, 1997

(Dictated in Open Court)

sd

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.

YLR

II Court

केन्द्रीय प्रशासनिक दबिकरण
Central Administrative Tribunal
Copy/DESPATCH
17 NOV 1997
हैदराबाद न्यायपीठ
HYDERABAD BENCH