

(UB)

CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

..

O.A.No.1063/1996.

Date: September 9, 1996.

Between:

P.V.Rama Rao. .. Applicant.

And

1. The Secretary, Department of Revenue, Ministry of Finance, Govt. of India, New Delhi.
2. The Commissioner of Central Excise-I, Lalbahadur Stadium Road, Basheerbagh, Hyderabad 500029.
3. The Commissioner of Central Excise, Central Revenue Buildings, Kannavarithota, Guntur, 522004.

Respondents.

Counsel for the Applicant: Sri S.Ramakrishna Rao.

Counsel for the Respondents: Sri V.Rajeswara Rao, Addl. Standing counsel for the Respondents.

CORAM:

HON'BLE SHRI JUSTICE M.G.CHAUDHARI, VICE-CHAIRMAN

HON'BLE SHRI H.RAJENDRA PRASAD, MEMBER (A)

--

O R D E R:

(PER HON'BLE SHRI JUSTICE M.G.CHAUDHARI, VICE-CHAIRMAN)

..

Heard Mr. Ramakrishna Rao for the applicant and Sri V.Rajeswara Rao, Additional Standing counsel for the Respondents.

The applicant was appointed on 23-11-1990 as Sepoy in Central Excise against Sports quota in Guntur Central Excise Commissionerate. He is continuing to hold that post in that capacity. A notification was issued in

full

the Employment News ~~xxx~~ inviting applications from the meritorious and outstanding sportsmen for appointment to the post of Inspectors of Central Excise in the disciplines of (a) Lawn-Tennis, (b) Volleyball (c) Gymnastics

✓ The last date to receive the applications was 31-8-1994.

It is the grievance of the applicant that since he belongs

✓ to the ~~category~~ of discipline of Athletics (Hammer Throw)

✓ and as the said discipline has not been included ⁱⁿ the

said employment notification, he has lost the chance of

being promoted to the post of Inspector and some juniors

who belonged to the disciplines mentioned in the notification

✓ ^{have stolen a march} acquired merit over him and therefore the respondents should be directed to consider him to the post

of Inspector having regard to his merit and seniority.

The applicant has been filing representations since 1994

and by letter dated 19--7--1996 he has been informed

that his request was not considered by the Commissioner

as it is not covered by any authority or instructions

relating to the appointment. This reply was given in

answer to his representation dated 10-7-1996.

3. Aggrieved with the same, the applicant ~~has~~

✓ is said to have filed an appeal ^{on 1-8-96} to the Secretary,

Central Board of Excise & Customs, North Block, New Delhi

followed by supplemental appeal to the same authority

filed on 3-8-1996. According to the applicant both

these appeals have been submitted through proper channel

WSP

i.e., through the Commissioner of Central Excise, Guntur.

In our opinion as to why the Discipline of Athletics was excluded from the employment notification needs to be considered by the Appellate Authority and in the light of that ~~only~~ ^{needs to be} the grievance of the applicant ~~could be~~

considered by the said authority. Since the appeals were filed recently, we have no reason to assume that the Appellate Authority will not consider the same on merits and inform the applicant the result thereof.

In view of the pendency of the appeals, we are not inclined to admit the O.A., at this stage. However, there appears to be a serious hurdle in the way of the appeals of the applicant to be considered by the Appellate Authority. By the letter dated 19-7-1996 mentioned above, the applicant has been called upon to explain the reasons for forwarding the advance copies of the representations (Appeals) to the Chief Commissioner of Central Excise, Hyderabad, ~~and to~~ the Member(Personnel) and to the Chairman, CBEC, New Delhi ignoring the proper channel.

Sri V.Rajeswara Rao, Additional Standing counsel for the Respondents submits that until the explanation offered by the applicant which is stated to be already submitted is accepted, the Commissioner of Central Excise, Guntur may not be required to forward the appeals to the Appellate Authority. We do not look upon the mis-conduct lightly.

hull

The representations- (Appeals) which the applicant had filed to the Commissioner of Central Excise, Hyderabad who was the Cadre Controlling Authority and also addressed Commissioner, to the Central Excise, Guntur shows that the applicant had stated at the end that "Advance Copies submitted to save delay" to the above mentioned Superior Authorities although earlier to that he had stated that copies were submitted to those authorities through proper channel. It was not correct and the act of submitting advance copies to the authorities who were not the Appellate Authority would clearly be indicative of the Appellate Authority being appraised that the applicant was taking the matter to the Superior Authority. It is for the Respondents to take appropriate decision in the matter in the light of and the explanation offered by the applicant. In so far as the Appeals are concerned, the applicant at the end had stated that copies were being submitted to the Secretary, Central Excise and Customs, New Delhi to save delay and also to the Commissioner of Central Excise, Hyderabad. These appeals are purported to be addressed to the Secretary, Central Excise and Customs through proper channel. We are therefore leaving it open to the Respondents to take whatever action they might be inclined to take in the light of the explanation offered by the applicant on the question of forwarding the advance copies to the Superior Authorities. ^{The} ~~of the applicant who however do not deny the~~ ^{cannot be denied}

huk

(43)

the opportunity of his appeals being considered on merits by the Appellate Authority i.e., the Secretary, Central Board of Excise and Customs. Hence the following directions:

1) The Respondent No.3 shall forward the appeals of the applicant dated 1-8-1996 and 3-8-1996 to the Secretary, Central Board of Excise and Customs, New Delhi for consideration on merits in accordance with the law subject to such separate action as may be taken if necessary for violation of the authorised channels for official communications. The forwarding of the appeals shall not be delayed for such action.

ii) The Secretary, Department of Revenue, Ministry of Finance, Respondent No.1 is requested to consider the appeals of the applicant on merits and dispose them of as expeditiously as possible and preferably within a period of two months from the date of communication of this Order and convey the result to the applicant.

4. The O.A., is disposed of in terms of the above directions at the admission stage.


H. RAJENDRA PRASAD
MEMBER (A)

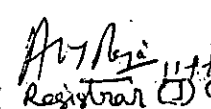

M.G. CHAUDHARY, J
VICE-CHAIRMAN.

Date: September 9, 1996

Pronounced in open Court.

SSS.

NOTE: EXPEDITE COPY OF THE
ORDER TO RESPONDENTS & Applicant. (B.O.)


Deputy Registrar

O.A. 1063/96

To

1. The Secretary, Dept.of Revenue,
Ministry of Finance,
Govt.of India, New Delhi.
2. The Commissioner of Central Excise-I,
Lalbahadur Stadium Road, Basheerbagh
Hyderabad-29.
3. The Commissioner of Central Excise,
Central Revenue Buildings,
Kannavarithota, Guntur-4.
4. One copy to Mr.S.Ramakrishna Rao, Advocate, CAT.Hyd.
5. One copy to Mr. V.Rajeswar Rao, Addl.CGSC.CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

pvm

11/9/96
24/9/96
I COURT

TYPED BY
CHECKED BY
COMPARED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE M.G. CHAUDHARI
VICE-CHAIRMAN

AND

THE HON'BLE MR. H. RAJENDRA PRASAD: M(A)

Dated: 9 - 9 - 1996

~~ORDER~~ / JUDGMENT

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

in

O.A. No. 1063/96

T.A. No. (w.p.)

Admitted and Interim Directions
Issued.

Allowed.

Disposed of with directions at the
Dismissed admission stage.

Dismissed as withdrawn.

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

pvm

a/w OA Copy

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal प्रेषण / DESPATCH 18 SEP 1996 हैदराबाद न्यायपीठ HYDERABAD BENCH
