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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

..
O.A.No. 755/1996.

Date: June 27, 1996.

Between:

P.J.R.Sekhar.

.. Applicant.

And

1.The Government of India, Ministry
of Finance, Department of
Revenue represented by its
Secretary, New Delhi.

2.Commissioner of Central Excise &
Customs, Basheer Bag, Hyderabad
Range, Hyderabad.

Respondents.

Counsel for the Applicant: Sri V.Pattabhi.

Counsel for the Respondents: Sri N.R.Devraj, Senior
Standing Counsel for res-
pondents.

CORAM:

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

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

O.A.No.755/1996.

Date: June 27, 1996.

O R D E R.

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

..

We have heard the learned counsel, Sri V.Pattabhi for the Applicant at great length. We have also heard Sri N.R.Devraj, learned counsel for the respondents.

2. The applicant seeks to challenge the Memorandum of Charges issued against him under Rule 14 of CCS(CCA) Rules, 1965 for the alleged mis-conduct. The said Memorandum dated 6--2--1996 has been issued under the order of the President of India who is the Appointing Authority. The Applicant submitted his reply on 1--4--1996. By an Order dated 8--5--1996, the Commissioner of Customs, Hyderabad has been appointed as the Enquiry Officer and by an order of the same date the Presenting Officer has also been named.

3. Mr. Devraj states that the enquiry is scheduled to proceed before the Enquiry Officer on 3--7--1996. It is at this stage, the applicant has approached the Tribunal. The applicant seeks a declaration that the Memorandum of Charges is arbitrary, illegal, improper, violative of principles of natural justice and Articles 14, 16, and 21 of the

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Constitution and prays that the same may be quashed as being void ab initio. It is the only substantive relief prayed in the O.A.

4. The learned counsel for the applicant, Mr. V.Pattabhi strenuously urged that the very initiation of the Disciplinary Proceedings is without jurisdiction as it is based upon false complaints and there being no sufficient material to warrant framing of the charge. It is submitted that the allegations made in the statement of imputation of misconduct relate to matters outside the purview of the job of the applicant and cannot attract Rule 14 of the CCS(CCA) Rules, 1965. Further, the learned counsel submitted that the applicant is being harassed by continued suspension since 17-10-1995. There is no justification according to the learned counsel to continue the said suspension. The learned counsel also tried to tell us that according to the applicant, the whole action of the respondents in initiating the Disciplinary Proceedings is a product of motivated and biased action on the part of Mr. Govind Raj, the Ex-Chairman. The learned counsel has taken up through the Memorandum of Charge, the statement of imputation of mis-conduct, the preliminary enquiry report and the other material annexed to the application. We have also gone through the reply that was filed by the applicant to the Charge Memo.

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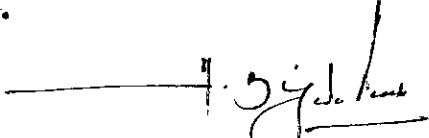
5. On perusal of the documents, it cannot be said that there was no basis for framing the charge. Although much was commented upon the veracity of the preliminary enquiry report, that is not a sufficient ground at this stage on which the enquiry can be interfered with. As and when the respondents will rely on that report as part of their evidence at the enquiry the applicant will have an opportunity to demonstrate that the evidence so adduced is not sufficient to prove the charge. Eventually all the submissions made revolve around the factual aspects on the merits of the case. This cannot be gone into at this stage. The applicant has clearly approached at an interlocutory stage and we see no reason to hold the proceedings initiated to be void ab initio.


6. As far as the grievance of the continued suspension is concerned, ~~that~~ it is not squarely the subject matter of the O.A. True it is, that the grounds relating to it are pleaded and grievance is made but that ~~is~~ is not part of the main relief which is confined to the Memorandum of Charge dated 6--2--1996. That is clear from paragraph 1 of the O.A., as well as the relief clause in paragraph 8. That question therefore, not being the subject matter of the O.A., directly, we do not consider it as sufficient to admit the O.A.

[Signature]

7. It may be mentioned that it is only in the clause for interim relief that the applicant has sought a direction to the respondents to reinstate him by revoking the suspension order. The interim relief cannot travel beyond the scope of the substantive relief claimed and the subject matter of the substantive relief. That being the case, we are not called upon to take into account the grievance of the applicant relating to his continued suspension.

8. In the result the O.A., is dismissed as interlocutory. It is made clear that no views are expressed on merits of the case. No order as to costs.


(H. RAJENDRA PRASAD)
Member (A)


(M.G. CHAUDHARI, J.)
Vice-Chairman.

Date: June 27, 1996.

Dictated in open Court.



Dy. Registrar (Judl)

sss.

Note:

Copy of the Order to be furnished to the applicant expeditiously.

(B.O)


P.S. to H.V.C.

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OA.No.755/96.

Copy to:-

~~xxxTheGovernmentofIndiaxxx~~

1. Secretary, Ministry of Finance,
Department of Revenue, Government of India,
New Delhi.
2. Commissioner of Central Excise &
Customs, Basheer Bagh, Hyderabad,
Range, Hyderabad.
3. One copy to Sri V. Pattabhi, Advocate,
G-4, Emerald, Amrutha Hills, Panjagutta,
Hyderabad-500 482.
4. One copy to Mr. N.R. Devraj, Senior Standing
Counsel ~~for~~ CAT. Hyd.
5. One copy to Library, CAT. Hyd.
6. One spare copy.

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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: 27-6-1996

ORDER/JUDGMENT

~~M.A./R.A/C.A.No.~~

in

O.A.No. 595/96

755/96

~~T.A.No.~~

(W.P.)

Admitted and Interim Directions
issued.

Allowed.

Disposed of with directions

Dismissed *as water yocating*

Dismissed as withdrawn

Dismissed for default.

Ordered/Rejected.

No order as to costs.

pvm

No spare copy

