

301/00
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES,1990)

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SECTION OFFICER (Judl.)

FORM NO.4

(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

O R D E R S H E E T

Original Application : 197/2003

Mise Petition No. :

Contempt Petition No. :

Review Application No. : dmApplicants:- S. SithodeRespondents:- 197/2003Advocate for the Applicants:- Mr S. SamantaMiss C. DasAdvocate for the Respondents!- Cose

Notes of the Registry Date Order of the Tribunal

This application is in form but not in time
 Contempt Petition is filed / not filed C
 for Rs. 50/- vide 1PO/197/3/15713

Dated 30/7/03

AborNaresh
04/9/03

5.9.03

Present: Hon'ble Mr. D. N. Choudhury, Vice-Chairman and Hon'ble Mr. K. V. Prahaladan, Member(A).

Heard learned counsel for the parties.

Issue notice on the respondents to show cause as to why the application shall not be admitted. Returnable by four weeks.

List on 24.10.03 for Admission.

K. V. Prahaladan
Member

Vice-Chairman

Notice is prepared and sent to Despatch Section for issuing to the respondents vide no 1923-1925 dated.

1m

10/9/03

24.10.03 Admn to 26.11.03

WJS
10/9/03

26.11.03 No Bench today.
Admn to 11.12.03.

MD
6

(2)

26.12.2003 Present : The Hon'ble Mr. Justice
B. Panigrahi, Vice-Chairman
Hon'ble Mr. K.V. Prahldan,
Member (A).

Written statement
filed on behalf
of the Respondents
No- 1, 2 & 3.

Heard learned counsel for the
parties.

The application is allowed
at the admission stage in terms of
the order passed in separate sheets.
No order as to costs.

24/12/03.

16/1/04
Member

B
Vice-Chairman

Recd. copy
All Courts
9/1/04

16.1.2004

Copy of the Judgment
has been sent to the
Office for, for
the time being, the
agreement by Post.

KS

U

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./Rxx. No. 1111 197/2003 & 194/2003

DATE OF DECISION 26.12.2003.

Sri S. Sitlhoce (In O.A. No. 197/2003)

... Sri Khaling Moshel Maring (In O.A. No. 194/2003) APPLICANT(S).

... Sri S. Sarma (In both cases) ADVOCATE FOR THE
APPLICANT(S).

-VERSUS-

... U.O.I. & Ors. RESPONDENT(S)

... Mr. A.K. Chaudhury, Addl. C.G.S.C. ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR. JUSTICE B. PANIGRAHI, VICE CHAIRMAN,

THE HON'BLE MR. K.V. PRAHLADAN, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble ~~xxxxxx~~ Vice-Chairman.

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Applications No.194/2003 & 197/2003.

Date of Order : This the 26th Day of December, 2003.

The Hon'ble Mr Justice B.Panigrahi, Vice-Chairman.

The Hon'ble Mr K.V.Prahladan, Administrative Member.

Sri Khaling Moshel Maring, (O.A.No.194/2003)
Inspector,
Central Excise, Guwahati-1 Range
Guwahati, Assam Applicant

Sri Shehtinmang Sitlhou, Inspector (O.A.No.197/2003)
S/o Latkhohao Sitlhou,
Resident of Imphal, Manipur Applicant

By Advocate Sri S.Sarma.

- Versus -

1. Union of India,
represented by Secretary to the
Govt. of India,
Ministry of Finance,
New Delhi-1.
2. The Commissioner,
Central Excise,
Morelo Compound,
Shillong-793001.
3. The Deputy Commissioner (P&V)
Central Excise,
Shillong Respondents.

By Advocate Sri A.K.Choudhuri, Addl.C.G.S.C.

O R D E R (EERAL)

PANIGRAHI J.(V.C)

Since there have been similar question of facts and law involved in both the cases they were heard together and are disposed of by this common order.

2. The applicants challenged the legality, propriety and validity of the departmental proceeding initiated by the respondents vide order dated 12.2.1998. Both the applicants are presently working in the Customs and Central Excise department as Inspector (Law). It is alleged that there were allegations of misconduct and misbehaviour against both the applicants. Accordingly departmental proceedings were initiated

and the article of charges have been framed against each of them. They were asked to submit their written statement of defence in support of their pleas. Immediately after such articles were served upon them the delinquent applicants requested the authorities to supply of the following documents upon basis of which the imputations were made against them. Those documents upon which basis such imputations were made are enclosed at Annexure-3 of the application. But they failed to furnish those documents upon the applicants. There is a parallel C.B.I proceeding launched against the persons those who were alleged to have carried those articles. These applicants also went to CBI office to see the documents but the CBI authorities purportedly informed them that the documents on which article of charges were framed were returned to the Customs department. Thereafter they once again approached the disciplinary authorities for supply of those documents even if there was no response from their end. Thus they filed these applications for appropriate directions.

3. Mr S.Sarma, learned counsel appearing for the applicants had submitted that similar proceedings were initiated not only against these two applicants but also nine others. Two of such applicants, namely, Subodh Dhar and James Guite filed two cases before the Tribunal being O.A.Nos. 18/2003 and 36/2003, in which the Tribunal passed the following orders :

"On consideration of all aspects of the matter, we are of the opinion that it is a fit case in which direction is need to be issued on the respondents to take a final decision on the disciplinary proceeding, since the enquiry was concluded in 2001 and the matter is pending before C.V.C. from August, 2001. Accordingly, the respondents are directed to take a final decision on the disciplinary proceeding against the applicant within a

period of one month from the receipt of the order, failing which the disciplinary proceeding against the applicants shall be deemed to have been set aside and quashed and the applicant shall stand exonerated. The respondents authorities are also directed to take appropriate decision for promotion of the applicant as per law and provide the applicants with all consequential benefits in terms of the conclusion of the disciplinary proceeding."

prior to this one Sri Bikash Kumar Saikia who was also a delinquent in a similar proceeding filed a case before the Tribunal in O.A.428/99. In that case the Tribunal passed the following order :

"Considering all the aspects of the matter we accordingly direct the respondents to conclude the enquiry as expeditiously as possible at any rate within three months from the date of receipt of this order. The applicant is also directed to fully cooperate with the Inquiry Officer to complete the disciplinary proceeding within the period specified.

As regards the other grievance of the applicant as to the maintainability and legitimacy of the proceeding, these aspects shall also be considered by the Disciplinary Authority and the applicant shall be free to raise any legal issue before the authority and the authority shall have to deal with the same as per law. Regarding the claim of the applicant for his due promotion both under the Assured Career Progression Scheme as well as regular promotion, we are of the view that this is a matter that concerns the administration and we hope the administration shall take necessary steps to that effect. It would also be open to the respondent authority to consider the case of the applicant for promotion if he is eligible under such scheme and the department may take necessary steps for utilising the sealed cover procedure and/or for providing financial benefit under the Assured Career Progression Scheme irrespective of the disciplinary proceeding."

In that view of the matter we no other option but to direct the respondents to supply the relevant documents upon basis of which the article of charges have been framed and conclude the proceeding as expeditiously as possible, within four

months from the date of communication of the order. In case for any reasons they could not complete the proceeding within the aforesaid date line it will be deemed that the proceeding would have been terminated and the delinquent shall thereafter have no obligation to answer the article of charges and proceeding shall be quashed after expiry of the aforesaid period. The service benefits, if any, the applicants are entitled to shall be considered after expiry of four months.

With the above both the applications are allowed. No order as to costs.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER


(B.PANIGRAHI)
VICE CHAIRMAN

26 AUG 2003

BENEFICIAL BACK

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case : D.A. No. 197 of 2003

BETWEEN

Shri Shehtimang Sitalhou Applicant.

AND

Union of India & ors..... Respondents.

I N D E X

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Filed by : Absha Das

Regn. No. :

File : c:\NS7\SHETINM

Date : 2

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Filed by
the applicant through
his/her Advocate
25/8/03

197
O.A. No. of 2003

Sri Shehtimang Sithlou

.....Applicant

-VS-

Union of India & Ors.

.....Respondents

LIST OF DATES

1. 12.2.98 The impugned chargesheet pursuant to which a departmental proceeding was initiated.
2. 18.8.98 Reply filed by the applicant with a prayer for inspection of the documents mentioned in Annexure-I, II, III & IV.
3. 28.10.98 Representation preferred by the applicant requesting the Respondents to conduct the inquiry at Imphal because of the restriction of movements on his part on the roads.
4. 21.12.98 Letter issued to the applicant informing appointment of the Inquiry Officer further requesting to correspond with the concerned Inquiry Officer for copies of the documents.
5. 15.2.99 Again preferred representation requesting to conduct the enquiry at Imphal because of his restriction of movements on the roads.
6. 14.7.99 Representation preferred by the applicant before the Asstt. Commissioner (Anti-Evasion), Central Excise, Shillong for the early conduct of the enquiry.
7. 16.9.99 Representation preferred by the applicant for supply of photo copies of documents.
8. 27.8.99 Inquiry Officer issued an order directing the applicant to appear before Asstt. Commission, Central Excise, Guwahati Division on 16.9.99 in his office at 11 A.M.
9. 9.12.99 Letter issued to the applicant asking the applicant to inspect the relied upon documents.

10. 17.1.2000 Representation preferred by the applicant through which he was requested to supply copies of the statements of witnesses/documents referred to in Annexure-III & IV of the charge-sheet as annexed in Note given below sub-rule 14 of the CCS(CCA) Rules, 1965.

11. 28.3.2000 Representation preferred by the applicant requesting the Asstt. Commissioner to expedite the matter at the earliest.

12. 19.4.2001 Representation preferred by the applicant requesting the authority to expedite the matter to avoid further delay.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under section 19 of the Central
Administrative Tribunal Act, 1985)

D.A. No. 197 of 2003

BETWEEN

Sri Shehtimang Sitlhou, Inspector
S/o Latkhohao Sitlhou
Resident of Imphal, Manipur.

..... Applicant.

- AND -

1. The Union of India.
Represented by Secretary to the
Govt. of India.
Ministry of Finance
New Delhi-1
2. The Commissioner
Central Excise,
Morello Compound
Shillong- 793001
3. The Deputy Commissioner (P&V)
Central Excise
Shillong.

..... Respondents.

DETAILS OF THE APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION
IS MADE:

This application is directed against the memorandum bearing no. C.No.II (10)A/8/CIU-VIG/98/145 dated 12/2/98 by which proceeding has been initiated departmentally against the applicant. This application is also directed against the action of the respondents in causing delay in finalising the departmental proceeding and

Filed by ¹²
the applicant through
Bishen Das
Advocate
25/8/2003

OB

thereby denying him the benefit of financial upgradation scheme (ACP).

2. LIMITATION:

The applicant declares that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act, 1985.

3. JURISDICTION:

The applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

4.1. That the applicant is a citizen of India and as such he is entitled to all the rights, privileges and protection as guaranteed by the Constitution of India and laws framed thereunder.

4.2. That the applicant has come before this Hon'ble Tribunal against the impugned charge sheet dated 12.2.98, pursuant to which a departmental proceeding was initiated but same is yet to be finalised. The delay in finalisation of the said proceeding caused tremendous hardship to the service career to the applicant and the Respondents in the name of pendency of the said departmental proceeding has been denying him the benefit of financial upgradation under ACP scheme. The applicant participated in the said proceeding and insisted for production of documents for inspection but same is yet to be materialised. The applicant

kept on requesting the enquiry officer for inspection of the records of the case and for speedy disposal of the proceeding but till date nothing has been done so far in this matter. On the other hand during the pendency of the proceeding the applicant has become due for promotion under the ACP scheme. However due to the pendency of said departmental proceeding initiated by issuing the impugned chargesheet dated 12.2.98 the applicant has been superseded by his juniors in promotion under the ACP scheme.

The applicant kept on pursuing the matter before the concerned authority but till date no action has been taken by the said authority in this regard. It is pertinent to mention here that most of the persons against whom same chargesheet was issued has been exonerated and they have been given the due promotion when the matter was brought to the notice of the Hon'ble Tribunal. The applicant in fact apprised the said authority regarding the similar cases but the respondents have shown their helplessness in absence of any order from this Hon'ble Tribunal. The applicant thus having no other alternative has come before this Hon'ble Tribunal seeking urgent and immediate relief.

4.3. That the applicant joined the services under the respondents as an inspector in the year 1995 under Custom and Central Excise Department. During his service tenure he had occasions to serve in various stations and eventually in 1993 he was posted at Palle, C.P.F. under the direct control of Superintendent. It was during his posting at Palle, the applicant received the impugned memorandum bearing No. C.No.II(10)A/8/CIV-VIG/98/145 dated 12.2.98. In

the said chargesheet the basic allegation is regarding allowing 13 numbers of trucks loaded with rice, garlic, badam etc of Myanmar origin without any check and without taking any action under Customs Act causing loss to the Govt.

A copy of the aforementioned chargesheet is annexed herewith and marked as Annexure-1.

4.4. That the applicant begs to state that from the Annexure-1 chargesheet has been issued on the basis of cases referred by the CBI. It is also apparent that there was no objective assessment of the materials by the disciplinary authority before issuing the said chargesheet. The chargesheet is a vague one and same was issued unnecessarily against the applicant only with the sole purpose to harass him. The Annexure-1 chargesheet issued to him was received by him on 18.8.98 from the Assistant Commissioner, Customs Division, Imphal and on the same day the applicant made a categorical denial in respect of all the charges leveled against him by submitting his representation dated 18.8.98. In the said reply the applicant while denying the charges made a prayer for inspection of records mentioned in the said chargesheet, more particularly in Annexures-I, II, III and IV. He also made a prayer to supply those records for providing further effective reply if necessary.

A copy of the said reply is annexed herewith and marked as Annexure-2.

4.5 That on receipt of the Annexure-2 representation dated 18.8.98, the respondents issued order bearing No.

37/98 dated 15.9.98 and 38/98 dated 15.9.98 by which one Sri A.Hussain, Assistant Commissioner (A.E) Customs and Central Excise, Shillong as Enquiry officer and Smt. Kalicia Synnah Suptd. Head Quarter, Customs and Central Excise as presenting Officer.

The applicant craves leave of this Hon'ble Tribunal to produce the orders dated 15.9.98 dated at the time of hearing of this case.

4.6. That the applicant even after his request for inspection of records did not receive any further communication from the respondents regarding the progress of the case as well as regarding production of records mentioned in the chargesheet. The applicant on 12.10.98 preferred a representation to the Deputy Commission (P&V), Central Excise, Shillong, praying for issuance of necessary order in this regard.

A Copy of the said representation dated 12.10.98 is annexed herewith and marked as Annexure-3.

4.7 That the respondents on receipt of the aforesaid letter dated 12.10.98 issued an order dated 21.12.98 referring to his aforementioned communication dated 12.10.98 with a request to make correspondence regarding the enquiry with the concerned Enquiry Officer. In the said letter the Respondents have also mentioned that for production of records and other related issue in respect of the said enquiry would settled by the said Enquiry Officer appointed vide order dated 15.9.98.

(X)

A copy of the said communication dated 21.12.98 is annexed herewith and marked as Annexure-4.

4.8. That the applicant begs to state that the Respondents although could have conducted the enquiry at Imphal but intentionally same was conducted at Shillong. Raising the issue the applicant preferred a representation highlighting the fact of Communal riot going on at Imphal between Kukis and Nagas.

A copy of the said representation dated 28.1.98 is annexed herewith and marked as Annexure-5.

4.9. That the Respondents on receipt of the Annexure-5 letter dated 28.1.98 did not resolve the issue an the applicant having no other alternative preferred another representation dated 15.2.99 requesting the authority to make necessary arrangement regarding the venue of the enquiry.

A copy of the representation dated 15.2.99 is annexed herewith and marked as Annexure-6.

4.10. That the respondents inspite of repeated requests made by the applicant never produced the documents mentioned in the chargesheet and thereby they were delaying the matter without any reason. The applicant to that effect preferred yet another representation dated 14.7.99 requesting the authority concerned to finalise the proceeding as early as possible. The aforementioned letter was followed by yet

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another letter dated 16.9.99 by which applicant prayed for production of listed documents and additional documents, that is, the statements recorded from the listed witness during the course of enquiry.

Copies of the letters dated 14.7.99 and 16.9.99 are annexed herewith and marked as Annexures- 7 & 6 respectively.

4.11. That during the course of enquiry the applicant kept on requesting the authority for production of records but same was denied to him. Lastly, the I/O issued an order dated 27.8.99 directing the applicant to appear before him is a particular date for inspection of relied upon documents. However, the respondents did not produce the records of the enquiry and subsequently another order was issued dated 9.12.99 by which the applicant was directed to visit the office of the C.B.I. SPE, ABC Silchar. The applicants on receipt of the said order preferred a representation dated 17.1.2000 highlighting the same earlier events as to how the right of inspection of documents have been denied to the other officials charged with same charge sheet.

Copies of the orders dated 27.8.99, 9.12.99 and the representation dated 17.1.2000 are annexed herewith and marked as Annexure- 9, 10, 11 respectively.

4.12. That the applicant participated the enquiry but as per the assurance he was never allowed to confront

with the documents relied by the respondents in the charge sheet. Apart from that during the course of enquiry witnesses were never examined nor he was given the opportunity to cross examine the witness. Though enquiry started belatedly but till date respondents could not complete the same. During the pendency of the said departmental proceeding the applicant became due for promotion under A.C.P. scheme and most of his juniors got the promotion. The respondents in the name of the said fake proceeding denied him the benefit of the ACP scheme whereas pendency of a departmental proceeding, more particularly the proceeding such present one where there is no progress cannot be a bar for such promotion. The applicant kept on representing the matter to the respondents regarding early disposal of the representations regarding early disposal of the matter but the respondents are bent upon not to finalise the said proceeding.

Copies of the representation dated 28.3.2000 and 19.4.2001 are annexed herewith and marked as Annexure 12 & 13 respectively.

4.13. That the petitioner states that the respondents have initiated the aforementioned departmental proceeding whimsically and arbitrarily without determining the correctness of the facts and from the charge sheet itself it is clear that the charges leveled are vague and not based on facts. As per the rules guiding the field the respondents ought to have issued the charge sheet on the correct factual basing without referring some vague statements that to which are yet to be proved. On this score

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alone the impugned chargesheet is liable to be set aside and quashed and the proceeding initiated against him pursuant to the said chargesheet is also liable to be set aside exonerating the applicant from the said charges and to provide him the benefit of ACP scheme with retrospective effect.

4.14. That the petitioner states that the impugned chargesheet dated 12.2.98 has been issued illegally by the respondents without any basis and the proceeding initiated against him is apparently violative of the provisions contained in CCS (CCA) Rules 1965 and as such same is not sustainable. Apart from that the impugned proceeding initiated against him is yet to be concluded and has been kept pending without taking any further steps for finalising the same. Inspite of repeated requests made by the applicant the I.O. has not yet supplied him the relevant documents pertaining to the said proceeding and delaying the matter unnecessarily. On the count of such inordinate delay the proceeding initiated against the applicant is liable to be set aside and quashed. It is pertinent to mention here that the Hon'ble Tribunal had occasions to deal with the matter in case of one Sri Bikash Kumar Saikia was also issued with a charge which was the subject matter of O.A. No. 428/99. the Hon'ble Tribunal while disposing of the said O.A. directed the respondents to conclude the proceeding within 3 months with a further direction to consider his case for promotion under A.C.P. scheme under sealed cover procedure. The aforementioned judgment was delivered on 16.1.2001 but the respondents did not implement it and as such said Sri Bikash Kr. Saikia had to approach this Tribunal once again

by filing contempt proceeding against the respondents. During the pendency of the said contempt proceeding the respondents provided him the benefit of A.C.P. scheme and he was exonerated from the charges leveled against him. The Hon'ble Tribunal on receiving those information regarding implementation of the judgment and order dated 16.1.2001 closed the contempt proceeding vide its judgment and order dated 11.6.2002.

Copies of the judgments dated 16.1.2001 and 11.6.2002 are annexed herewith and marked as Annexure 14 & 15 respectively.

4.15. That the applicant states that claiming similar relief one Sri Subadh Dhar and One Sri Games Guite approached the Hon'ble Tribunal by filing O.A. No. 18/03 and 36/03, who were also charge sheeted by the respondents for the same set of charges. The Hon'ble Tribunal relying on the judgment dated 16.1.2001 passed in OA No. 428699 directed the respondents to conclude the proceeding by taking a final decision within one month with a further observation that in the event of not finalising the proceeding would amount to setting aside of the said proceeding.

A copy of the common judgment & order dated 16.3.2003 is annexed herewith and marked as Annexure-16.

4.16. That the applicant begs to state that the respondents authority have acted illegally in delaying the proceeding without any valid reason and thereby causing hardship to the applicant in the matter of promotion and

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other service condition. Taking into consideration various guidelines issued by Govt. of India the respondents are duty bound to conclude the said proceeding within a short time. In any view of the matter, a proceeding initiated in the month of February 1998 can not be made pending till date without any valid reason, more so when in case of others the proceeding has come to an end. It is therefore the applicant prays before the Hon'ble Tribunal for a direction towards the respondents to exonerate the applicant from the charge leveled against him and to provide him all the consequential service benefits including promotion under ACP Scheme with retrospective effect.

4.17. That this application has been filed bonafide and to secure ends of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the Disciplinary Authority committed manifest error of law apparent of the face of the record in initiating the disciplinary proceeding against the applicant on the basis of some vague and wild allegations not sustained by any facts. Therefore continuance of the aforesaid proceeding being abuse of the process of law, same requires to set aside and quash.

5.2. For that the Respondents have illegally issued the chargesheet dated 12.2.98 without providing the protection under Article 14 of the Constitution of India and laws framed there under and as such same is liable to be set

aside and quash.

5.3. For that the respondents have violated the settled position of law in keeping the said proceeding pending for years together without any progress and as such same is liable to be set aside and quash.

5.4. For that the respondents have initiated and conducted the impugned departmental proceeding in total violation of Article 14 and the Rules contained in CCS(CCA) Rule, 1965 and as such same is not sustainable in the eye of law and liable to be set aside and quash.

5.5. For that the Respondents have acted illegally in not promoting the applicant under ACP scheme in the name of Clerical enquiry and as such appropriate direction need be issued to the Respondents for consideration of his case for said promotion under ACP Scheme.

5.6. For that in any view of the matter the impugned action/inaction on the part of the respondents is not sustainable in the eye of law and liable to be set aside and quash.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the remedies available to them and there is no alternative remedy available to him.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER

COURT:

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The applicant further declares that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicant:-

8.1. To set aside and quash the impugned chargesheet dated 12.2.98 with a further direction to extend the benefit of ACP scheme to the applicant with retrospective effect with all other consequential service benefits.

8.2. Cost of the application.

8.3. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of this application the applicant prays for an interim order to direct the Respondents to

extend the benefits of the ACP scheme.

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11. PARTICULARS OF THE I.P.O.:

1. I.P.O. No. : 96 157131

2. Date : 30/7/2003

3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

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VERIFICATION

I, Sri Shehtinmang Sitalhou, aged about 43 years,
S/o Lalabohao Sithlou, at present working as Inspector,
Central Excise, Imphal, do hereby solemnly affirm and
verify that the statements made in paragraphs
~~23, 41, 42, 43, 44, 45, 46, 47 & 5 to 12~~ are true
to my knowledge and those made in
paragraphs ~~1, 43, 412, 44 & 45~~ are also true to my legal
advice and the rest are my humble submission before the
Hon'ble Tribunal. I have not suppressed any material facts
of the case.

And I sign on this the Verification on this
the 22nd day of August of 2003.

Signature.

Shehtinmang Sitalhou

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
OFFICE OF THE COMMISSIONER OF CUSTOMS AND CENTRAL EXCISE
SHILLONG.

C.No.II(10)A/8/CIU-VIG/98/145

DATED: 12/2/98

M E M O R A N D U M.

XXX Shri B. Thamar, Deputy Commissioner (P&V)

proposes to hold an inquiry against Shri Shehtinmang Sitlhou, Inspector, under Rule 14 of the Central Civil Services (Classification, Control and Control) Rules, 1965. The substance of the imputation of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure III and IV).

2, Shri Shehtinmang Sitlhou, Inspector is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

Shri Shehtinmang Sitlhou, Inspector is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 or the orders/directions issued in pursuance of the said Rule, the inquiring authority may hold the inquiry against him ex parte.

5. Attention of Shri Shehtinmang Sitlhou, Inspector is invited to Rule 20 of the Central Civil Services (Conduct) Rules, 1964 under which no Government Servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another

Contd.....F/2.

Attested
as
Advocate

16-A

- 2 -

Even in respect of any matter dealt with in these proceedings, it will be presumed that Shri Shehtinmang Sitalhei, Inspector, is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of rule 26 of the C.C.S. (Concise) Rules, 1964.

5. The receipt of this Memorandum may be acknowledged.

Enclosed are 2 copies.

(B. THOMAS)
DEPUTY COMMISSIONER (P&V)
CENTRAL EXCISE : SHILLONG.

To

Shri Shehtinmang Sitalhei,
Inspector,
Churachandpur P.P.

Arrested
W.S.
Advocate.

ARTICLE OF CHARGE FRAMED AGAINST SHRI
SHEHTINMANG SITLHOU, Inspt. CUSTOMS (PREVENTIVE)

.....

THAT, Shri Shehtinmang Sitlhou, while functioning as Inspector, Customs (Preventive) at Customs Preventive Force, Palioi during 26.10.1994, failed to maintain devotion to duty and discharge of his official duty, in as much as he allowed to pass 13 numbers of trucks loaded with rice, garlic, badam etcetera of Myanmar origin, without any check and without taking any action under Customs Acts and thereby, showed favour to the smugglers by abusing his official position as of Customs (Preventive), thereby causing financial loss to the Government.

The aforesaid acts of omission and commission on the part of said Shri Shehtinmang Sitlhou, tantamount to the violation of Rule 3(1) of C.C.S. Conduct Rules, 1964.

AMOS
VAN
Advocate

ANNEXURE-A

Statement of Accusation of Misconduct in Support
of article of charge framed against Shri Shehtinmang
Sitlhou, formerly Inspector Customs Preventive

Force Pallel

That Shri Shehtinmang Sitlhou was posted
as Inspector of Customs (Preventive) at Customs
Preventive Force, Mawshendu Pallel during 1994.
On 26.10.94 he was on duty at C.P. Mokokchung. His main
duty was to collect intelligence about the smuggling
activities of various individuals in the Customs
area, being member of Customs Preventive Force
Pallel and to seize the said illegal goods for taking
suitable action under the customs acts.

That Shri Shehtinmang Sitlhou, above will be
on duty on 26.10.94 failed to discharge his official
duty with absolute integrity and thereby
allowed to pass 13 Nos. of Trucks bearing the following
nos. (i) MM-2309 (ii) MM-1163 (iii) MM-01-4124
(iv) MM-04-0286 (v) MM-3420 (vi) MM-2730 (vii) MM-
3163, (viii) MM-01-B-3869 (ix) MM-3079 (x) MM-3178
(xi) MM-01-3089 (xii) MM-01-4234 (xiii) MM-2308
loaded with Rice, Beans, Oats, etc. of Myanmar
origin to Imphal without taking any action under the
Customs Act & Rules.

That the said 13 nos. of Trucks were seized
by the C.P. after crossing C.P. Pallel and detained
transportation of said illegal goods from Bokchung
Ghati, etc. from Myanmer to Imphal and the same were
handed over to the Customs authority at Imphal.

That the Customs authority at Imphal kept before
13 nos. of Cars bearing nos. MM-2309/MM-1163
to case No. 130/CL/CL/IMP/94 on 26.10.94 and during
adjudication it was established that the above items
were smuggled from Myanmer via Bokchung & Pallel. In
a result the seized goods were confiscated. Customs
duties were demanded and relevant on charges of adequate

Continued 2/2

Attest
NABN
Advocate

-2-

redemptive fine and personal penalty.

2. That the aforesaid acts of omission and
commission on the part of Sri Shehtinmang Sital
contravened the provision of Rule No. 3(1) of the
new GOS Conduct Rules, 1966.

-0-0-0-0-

Arrested

W.D.M.

1966

82
List of documents by which the article of charge framed against
Shri Shehtinmang, Inspector, Customs Preventive, Moreh
are proposed to be sustained.

1. Certified xerox copy of the memorandum prepared by Shri N.N. Singh, Dy. S.P., CBI, Silchar Branch in connection with the surprise check of SIR Case No. 39/SIR/94-SLC/101 CBI Silchar Branch at Pallel Forest Check gate on 26/10/94 at 14.45 hrs. to 16.30 hrs.
2. 13 (thirteen) vehicle challans which were found to be accompanied with the 13 Trucks during the time of Surprise checking which were resealed in connection with RC-7(A)/95-SLC on production by Shri N.N. Singh, Dy. S.P. of CBI, Silchar Branch.
3. Copy of the letter for handing over of these documents to Addl. Collector Customs Preventive Division NER, Imphal on 28/10/94.
4. (i) 3 Outgoing Registers maintained at Moreh Small Town Committee (having the particulars of Goods lifted with Veh. No. & date) w.e.f. 27/8/94 to 16/11/94.
(ii) 2 Outgoing vehicle entry Registers maintained at Moreh Small Town Committee having date, vehicle No. time, signature of the drivers/conductors w.e.f. 6/8/94 to 9/12/94.
5. Certified photocopies of Moreh to Imphal vehicle entries Register maintained at Police check gate Moreh on dt. 26/10/94.
6. Letter No. 8 11(A)/COM/ACI/93/13 dt. 16/3/95 of the office of the Additional Commissioner, Customs Preventive NER, Imphal Manipur with the copy of the Adjudication order of Customs Case No. 118 to 130/CL/IMP/CUS/94 dt. 28/10/94.
7. Photocopies of Adjudication order No. 240/Adj/Addl./Commr/NER/ dt. 4/8/95 collected from Assistant Commissioner of Customs Preventive NER, Imphal.
8. Letter No. C.No.11(39) CIU-VIC/20/95/209 dt. 8/2/96 of Shri J.N. Ngithiela, Additional Commissioner (I&V) Customs & Central Excise, Shillong is response to letter No. 3/7(A)/95-SLC/1P/1075 dt. 29/11/95 of SP, CBI, SPC, Silchar Branch.
9. Attestd copies of the Inventory list, Preventive release of the goods and Trucks of Case No. 118 to 130/CL/CUS/1P/94 dt. 20/10/94 of Customs Preventive Division NER, Imphal.

-000-000-

Jn/_

AMG
Wans
Advocates

List of witnesses by whom Article of charge framed against
Shehtinmang Sitthou, Inspt. Customs (Preventive) 401101
had to be sustained :-

Shri N. Monithoi Singh, Dy. SP, CBI, Silchar Branch

-will prove the seizure of 13 Nos. of Trucks loaded with Rice, Badam, Garlic, etc. on 26.10.94 at Forest Check Gate, Pailal which illegally imported from Myanmar via Moreh & Pailal Custom Preventive Force and handing over of the seized trucks and the illegally imported goods to the Custom Authority at Imphal.

2. Shri Md.Siraj Ahmad,Forester Gr.I,Forest Beat Office,Pallel,
3. Shri Md.Sarauddin,Forester Gr.II Forest Beat Office,Pallel,
-both Sl.2&3 were the seizure witnesses and they will corroborated the Statement of Shri N.M.Singh.Dy.SP,CBI,Silchar to prove the seizure of 13 Nos.of Trucks loaded with Rice,Badam,Carlic,etc on 26.10.94.
4. Shri Jilkhotong Touthang,LDC,Moreh Small Town Committee,
-will prove the passing of the said 13 Nos.of Trucks from Moreh towards Imphal on NH-39 passing through Moreh Small Town Committee check gate from the records he maintained at the said check gate on 26.10.94.
5. Shri Sanajaiba Singh,Inspector of Police,Moreh Police Station,
-will prove the passing of the said 13 Nos.of trucks with the goods mentioned above from Moreh towards Imphal along NH-39 on 26.10.94.
6. Shri C.Panmei,IRS,Asst.Commissioner,Customs Preventive Division, Imphal.
-will prove the taking over by the report of seizure of 13 nos/of trucks loaded with Rice,Badam,Carlic,etc.alongwith the trucks and the goods seized by CBI on 26.10.94 and follow up of necessary legal actions.
7. Shri D.D.Ingti,Addl.Commissioner,Customs Preventive,NER,Imphal
-will prove that he had adjudicated the seizure Case No.118/CL/CUS/IMP/94 to No.130/CL/CUS/IMP/94 dated 20.10.94 and the imposition of Customs duty,redemption fine, and personal penalty,etc.to the owners of the seized goods.
8. Shri J.N Ngilneila,Addl.Commissioner(P&V),Customs & Central Excise, Shillong,
-will prove that during 26.10.94 there was no 11mmd Custom stationed at Moreh but there was Customs Preventive Force at Moreh and Pallel. He will further prove that the Jurisdiction of the Customs Preventive Force at Moreh and Pallel.

Annexure-2

CENTRAL EXCISE: IMPHAL

C-NO.2760

Date. 16.8.98

To,

The Deputy Commissioner (P&V),
Central Excise,
Shillong.

Sir,

Sub:- Inquiry under Rule 14 of the Central Civil
Services (CCA, rules 1965)

Please refer to your letter C.No.II(10)A/B/CIV-
VIG/98/145 dated 12.2.98 received by me on 16.8.98 from the
Assistant Commissioner, Customs Division, Imphal.

In reply to the above memorandum, I would like to say
that I deny all the charges framed against me in the said
letter further added that I would like to inspect all the
records mentioned in annexure I, II, III & IV and take
photocopy of all these records before giving further reply
if required.

Yours Faithfully

Inspector
Central Excise
Imphal-795001

Attested
W. D. D.
Advocate.

35
Annexure-3

CENTRAL EXCISE: IMPHAL

C-NO.

Date.

To,

The Deputy Commissioner (P&V),
Central Excise,
Shillong.

Sir,

Sub:- Inquiry under Rule 14 of the Central Civil
Services (CCS) Rules 1965.

Ref:- C.No.II(18)A/8/CIV-VIG/98/145 dated 12.2.98.

Please refer to my earlier letter C.No.2768 dated
18.8.98 on the above subject.

In connection of the above, I would like to inform you
that, till date, I have not received any further
communication from your end. Please issue me clearance
certificate early on the matter for my record since I have
already submitted my clarification.

Yours faithfully

(S.SITLHOU)
Inspector
Central Excise
Imphal-795001

Attested
W.S.M.
Advocate.

- 22 -

CUSTOMS AND CENTRAL EXCISE : SHILLONG.

C.No.II(10)A/8/CIU-VIG/98/643

Dated:- 21/10/98

To,

Shri Shehtinmang Sitlhou,
 Inspector,
 Central Excise,
 Impbal Range,
 Imphal - 795 001.

Subject:- Inquiry under Rule 14 of the Central
 Civil Services (CCCA) Rules 1965 -C/R.

Please find the copy of Office Order No. 37/98 dated
 12.10.98 on the above subject.

I am directed to inform you that the Inquiry
 Officer has been appointed vide this office order No. 37/98
 dated 15.9.98 in respect of your case. You are requested to
 correspond with the concerned Inquiry officer for copies of
 the documents.

Chmn
 21/10/98
 (C.HAUZEL)
 SUPERINTENDENT (CIU-VIG)
CUSTOMS AND CENTRAL EXCISE:SHILLONG.

Attested
 V. S. S.
 Advocate.

CENTRAL EXCISE: IMPHAL

C-NO.2895

Date. 28.10.98

To,
Shri A. Hussain
Assistant Commissioner (Anti-Evasion),
Central Excise,
Shillong

Sir,

Sub:- Departmental Inquiry against Shri S. Sitlhou,
Inspector, Central Excise, Imphal Range, under Rule
14 of CCS(CCA) Rules 1965.

Please refer to the Departmental Order No. 37/98
dated 15.9.98.

In connection of the above subject matter, I would
like to request you to please conduct the inquiry over here
at Imphal because of the tremendous restriction of
movements on my part on the roads. In regards to the
mentioned movement restrictions, I hope you might be well
aware of the fact that there is communal riot going on here
in Manipur between the Kukis and Nagas and has claimed
thousands of precious lives and the fact is that I belong to
the Kuki Comm. The problem is that the Nagas are inhabiting
along both the National Highways, the only road outlets of
Manipur to other parts of India. Therefore, there is no
security of life for me to travel on these roads. Moreover,
there is no rail links from Manipur to other parts of India.

Secondly Sir, it is my humble request that if in
any case the said inquiry is to be conducted there at
Shillong, I may be provided with a special facility to
travel by air and the due date of hearing informed to me
well in advance so that I could arrange for the flight
ticket which is always rush here at Imphal.

Yours faithfully

S. Sitlhou
Inspector
Central Excise
Imphal-795001

*Attested
H.S. Bar
Advocate.*

Annexure-6

CENTRAL EXCISE: IMPHAL

C-NO.3268

Date. 15.2.99

To,
Shri A. Hussain
Assistant Commissioner (Anti-Evasion),
Central Excise,
Shillong

Sir,

Sub:- Departmental Inquiry against Shri S.Sitihou,
Inspector, Central Excise, Imphal Range under Rule
14 of CCS(CCA) Rules 1965 - CIR.

Please refer to my earlier letter C.No. 2895 dated
20.10.98 on the above subject.

In the above mentioned letter, I have already
pointed out the problems I would be facing while traveling
from Imphal to other parts of India by road and requested
you to either conduct the inquiry over here at Imphal or to
extend special facility to travel by air. Keeping in mind my
aforesaid problems, please make necessary arrangement for
early conduct of the inquiry to avoid unusual delay since I
am due to get my promotion.

Yours faithfully

S.Sitihou
Inspector
Central Excise
Imphal-793001.

Attested
W.S. Soni
Advocate

Annexure-7

CENTRAL EXCISE:IMPHAL

C-NO. 126

Date. 14.07.1999

To,
 Shri A. Hussain
 Assistant Commissioner (Anti-Evasion),
 Central Excise,
 Shillong

Sir,

Sub:-Departmental Inquiry against Shri S. Sitlhou,
 Inspector, Central Excise, Imphal Range, under Rule
 14 of CCS (CCA) 1965 -C/R.

Please refer to my earlier letters C.No. 2895
 dated 20.10.98 and C.No. 3298 dated 15.2.99 on the above
 subject.

For the reasons stated aforesaid letters, I would
 like to request you for the early conduct of the enquiry
 since the matter is already delayed.

Yours faithfully

S.Sitlhou
 Inspector
 Central Excise
 Imphal-795001.

Attested
 V.S. Das
 Advocate.

Annexure-B

CENTRAL EXCISE: IMPHAL

C-NO.

Date. 16.9.99

To,
Shri A. Hussain
Assistant Commissioner (Anti-Evasion),
Central Excise,
Guwahati

Sir,

Sub:- Request for supply of Photo copies of documents.

I would like to request you to please supply me the photo copies of the following documents as per provision of Rule 14 of CCS(DCA) Rules.

1. Photo-copies of all documents listed from Sl.No. 1 to 9 in annexure-III.

2. Photo-copies of statements of all persons whose names are listed from Sl.No.1 to 8 in annexure-IV.

Yours faithfully

S.Sitihou
Inspector
Central Excise
Imphal.

Arrested
V.Dan
Advocate.

OFFICE OF THE ASSISTANT COMMISSIONER OF CENTRAL EXCISE
GUWAHATI: GUWAHATI DIVISION

Confidential

C.N.O. II(8)/CON/ACG/99/ 4342

Regd AD

Dated: 27/8/99

To:

✓ Shri Bhehtinmang Sikhou,
Inspector, Central Excise,
Imphal Range
Imphal.....

Subject :- DEPARTMENTAL ENQUIRY UNDER RULE 14 OF CCS (CCA)
RULES, 1965 AGAINST SHRI S. Sikhou, I.M.P.

Under Order No. 37/98, dtd. 15th September, '98 vide C.No. II(10)A/ /CIU-VIG /98/ dated 29.09.98 of the Commissioner/Deputy Commissioner (P&V), Customs & Central Excise, Shillong, a copy of which has been endorsed to you also, I have been appointed as the Inquiring Officer to enquire into the charge framed against you. I shall hold hearing in the case on dtd. 16.9.98. in my office at 11 A.M. You are, therefore, required to attend the proceedings for inspection of the relied upon documents on the appointed date, time and place, failing which the proceedings shall be held ex parte.

Instructions for getting Defence Assistant relieved will be issued if his particulars and willingness to work as such alongwith the particulars of Controlling Authority are received by me before 10.9.98.

While nominating a serving Government Servant as Defence Assistant, as also the retired Government Servant the instructions on the subject should be kept in view.

27/8/99
(A. Hussain)

Assistant Commissioner
Central Excise
Guwahati Division.

Attested
by an
Advocate.

C No. II(8)1/CON/ACC/00

Dated :

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Copy to

1. Smti. Milicia Synnah, (Presenting Officer), Superintendent (Headquarters), Central Excise, Shillong. She is required to attend the preliminary hearing for inspection of the documents along with all the list of documents, copies of the charge sheets and statement of the said witnesses, if any required during preliminary investigation, as per programme given above.
2. Assistant Commissioner, Central Excise/Customs ~~Excise~~ Central Div. for information. The summon meant for Sri ... *S. Sithou, IAS* ... in sealed cover who is required to appear before me at the respective date and time mentioned above is enclosed herewith for delivery to him on proper receipt and the receipt so obtained may please be sent to the undersigned for record.
3. Joint Commissioner (P&V) Customs & Central Excise, Shillong, for information with reference to his letter C.No. II(39)22/CIU-VIG/1998/518 dt.d. 05/08/99.
4. The Superintendent of Police, CBI, SPE, ABC-Silchar Branch, Silchar-788004 for information and necessary action. He is also requested to allow the charged officers to inspect the relied upon documents under his custody and the date so fixed for the purpose may please be intimated to the undersigned well in advance for further communication to the charged officers.

(A.Hussain)

Assistant Commissioner

Central Excise

Guwahati Division.

Attested
W. D. Son
Advocate.

OFFICE OF THE ASSISTANT COMMISSIONER OF CENTRAL EXCISE

G U W A H A T I .

C.NO.V(30)32/Hqrs.AE/CE/SH/98/

Date : 9.12.99

CONFIDENTIAL

To

Sri S. Sitlhou,
Inspector,
Central Excise,
Imphal Range,

Subject : Departmental Enquiry under Rule 14 of CCS(CCA) Rules, 1965 against Sri Subodh Dhar, Superintendent and other Inspectors.

In continuation to this office letter No.II(8)1/ CON/ACG/99 dated 27.8.99, you are hereby asked to inspect the relied upon documents reported to be in the custody of the office of C.B.I., SPE, ABC Silchar, Silchar-788004 at the earliest for submission of your defence reply.

The outcome of the inspection may please be reported to the undersigned within seven days of completion of the inspection for further necessary action from this end.

Subodh Dhar
(A. HUSSAIN)

ASSISTANT COMMISSIONER
CENTRAL EXCISE :: GUWAHATI.

C.NO.V(30)32/Hqrs. AE/CE/SH/98/
Copy to -

Date : 9.12.99

1. The Superintendent of Police, CBI, SPE, ABC Silchar Branch, Silchar-788004 - For information and necessary action with reference to this office letter No.II(8)1/ Con/ACG/99 dated 27.8.99 on the above subject. He is also requested to allow the Charged Officer to inspect the relied upon documents under his custody. This is with reference to the direction of Joint Commissioner (P&V), Customs and Central Excise, Shillong under his C.NO.II(39)CIU-VIG/20/95/772 dated 25.11.99.
2. The Deputy Superintendent of Police, CBI, SPE, Imphal, for information.
3. The Joint Commissioner (P&V), Customs and Central Excise, Shillong with reference to his order communicated under C.NO.II(39)CIU-VIG/20/95/772 dated 25.11.99.

Subodh Dhar
(A. HUSSAIN)

ASSISTANT COMMISSIONER
CENTRAL EXCISE :: GUWAHATI.

Attested

W.S. Dhar
Authorised

Dt. 17.1.2008

To,

✓ Shri. Anwar Hussain,
 Assistant Commissioner,
 Central Excise, GUWAHATI.

ConFidential.

Annexure - 11

Sir,

Subject:- Departmental Inquiry under Rule 14 of the
 CCS(CCA)Rules 1965 against Shri. Subodh
Dhar, Superintendent and other Inspectors.

Please fefer to your letter C.NO.V(30)32/Hqrs.AE/CE
 /SH/98/6332-42 Dt. 9.12.99 on the above subject.

I have noted down the contents of the aforesaid letter. It is clear from the said letter that the authorities while framing charges against the incumbent concerned have neither gone through the relied upon documents nor read between the lines of the statements of witnesses. The manner in which charges framed itself is illegal and beyond the belief and perception of a common man/person. In short, I can say that these charges have been framed with a malafide intention to harass an innocent official. It is also ~~strange~~ that the charges have been framed only relying upon hearsay.

Moreover, no date has been fixed therain for inspection of the documents which are ~~today~~ in the custody of the C B I office, Silchar. Please take up the matter with C B I and fix a date of inspection of these documents from your end in order to make my visit to the C B I office, Silchar fruitful as it is learnt from other co-accused in the case that whenever they visited C B I office, Silchar, they were not provided with the required documents for inspection, if Rule 14 permits.

Further requested to supply copies of the statements of witnesses/documents referred to in Annexure-III&IV of the charge-sheet as envisaged in 'Note' given below sub-rule 14 of the CCS(6CA) Rules 1965.

Yours faithfully

S
 17/1/2008
 (S.S. I T L H O U)

Attested
 V. D. M.
 Advocate.

Annexure-12

CENTRAL EXCISE: IMPHAL

D.No.643

Date: 28.03.2000

To,
Shri Anwar Hussain
Assistant Commissioner,
Central Excise,
Guwahati

Sir,

Sub:- Departmental Inquiry under Rule 14 of the
CCS(CCA) Rules 1965 against Shri Subodh Dhar,
Supdt. and other Inspectors.

Please refer to my earlier letter C.No.532 dated
17.01.2000.

In view of my above mentioned letter, I would like
to request you to kindly expedite the matter at the earliest
possible date to avoid further delay.

Yours faithfully

S.Bitihou
Inspector
Central Excise
Imphal-795001

*Bitihou
Vans
Advocates*

Annexure-13

CENTRAL EXCISE: GUWAHATI

C.No.1196

Date: 19.04.01

To,
Shri Anwar Hussain
Assistant Commissioner,
Central Excise,
Guwahati.

Sir,

Sub:- Departmental Inquiry under Rule 14 of the
CCS(CCA) Rules 1965 against Shri Subodh Dhar,
Supdt. and other Insp's.

Please refer to my earlier letters C.No. 532 dated
17.01.2000 and C.No.643 dated 28.03.2000 on the above
subject.

I would like to request you once again for your
kind consideration and prompt action in expediting the
matter at the earliest possible date to avoid further delay
since I have been already superseded in ACP promotion.

Yours faithfully

S.Sitlhou
Inspector
Central Excise
Imphal-795001.

ANSEL
V.D.
AWD

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.428 of 1999

Date of decision: This the 16th day of January 2001

The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman

The Hon'ble Mr K.K. Sharma, Administrative Member

Shri Bikash Kumar Saikia,
Inspector (Law),
Customs Division,
Guwahati.

.....Applicant

By Advocates Mr K.N. Choudhury, Mr P. Bhowmick and Mr B. Das.

- versus -

1. The Union of India, represented by
The Secretary to the Government of India,
Ministry of Finance,
New Delhi.
2. The Commissioner of Central Excise,
Shillong.
3. The Joint Commissioner (P & V),
Customs and Central Excise,
Shillong.
4. The Assistant Commissioner (Enquiry Officer),
Central Excise Division,
Guwahati.
5. The Superintendent (Head Quarter),
(Presenting Officer),
Central Excise Commissionerate,
Shillong.

.....Respondents

By Advocate Mr B.S. Basumatary, Addl. C.G.S.C.

.....
ORDER (ORAL)

CHOWDHURY.J. (V.C.)

This application under Section 19 of the Administrative Tribunals Act, 1985 is directed against the legality and validity of the proceeding initiated by the respondents against the applicant vide Memorandum C.No.II(10)A/3/CIU-VIG/98/142 dated 12.2.1998 issued by the Deputy Commissioner (P & V), Central Excise, respondent No.3, as well as the continuance of the aforesaid proceeding since 1998.

Attested
Noor
Advocate

2. The applicant is presently working in the Customs and Central Excise Department as Inspector (Law) on and from 8.9.1992. The applicant who was serving as such at Dibrugarh was posted at Imphal Division. From Imphal Division he was transferred to Moreh Customs (Preventive Force) (CPF). The applicant was accordingly serving at Moreh CPF from 21.8.1992 to 31.1.1995. The applicant was thereafter transferred to the Office of the Superintendent of Central Excise, Tangla Range. While serving at Tangla Range, the Assistant Collector (Preventive Division), Imphal vide letter C.No.II(9)1/Con/ACI/94/165 dated 21.4.1995 advised the applicant to submit his Resume of work for the period from 1.4.1994 to 31.3.1995. Pursuant to the aforesaid communication, the applicant submitted his Resume for the period in question to the Controlling Superintendent of the applicant vide letter dated 29.5.1995. While the applicant was so serving he was served with the impugned Memorandum dated 12.2.1998 indicating the decision of the respondents to hold an enquiry against him under Rule 14 of the CCS (CCA) Rules, 1965. The substance of the imputation of misconduct or mis-behaviour on which the enquiry was proposed to be held alongwith the statement of imputation of misconduct or misbehaviour alongwith the list of documents as well as list of witnesses in support of the articles of charge were served upon the applicant. In the charge it was alleged that the applicant while functioning as Inspector, Customs (Preventive) at Customs Preventive Force, Moreh during 26.10.1994 failed to maintain devotion to duty and discharge of his official duty, in as much as he allowed to pass thirteen numbers of trucks loaded with rice, garlic, etc. of Myanmar origin, without any check and without taking any action under Customs Acts and thereby, showed favour to the smugglers by abusing his official position as of Customs (Preventive), thereby causing financial loss to the Government, which according to the Department amounted to violation of Rule 3(1) of CCS Conduct Rules, 1964. Alongwith the applicant six Inspectors and one Superintendent were also issued similar chargesheets. The applicant submitted his written statement of defence on 26.2.1998, denying the charges and questioned the legality and validity of the proceeding. The applicant, in this application, challenged the aforesaid proceeding and more particularly, the continuance of the disciplinary proceeding as arbitrary, discriminatory and unfair.

Attested
W. D. M.
Advocate.

3. The respondents have submitted their written statement and denied and disputed the claim of the applicant.

4. Mr K.N. Choudhury, learned counsel for the applicant, firstly submitted that the proceeding initiated by the Deputy Commissioner was without jurisdiction, so much so that the Deputy Commissioner (P & V) of the Customs and Central Excise Department was not the authority to initiate the proceeding since the applicant at the relevant time was under the Customs Collectorate. He further submitted that the disciplinary proceeding itself was seemingly initiated at the instance of the CBI without exercising its own discretion. The learned counsel for the applicant, referring to some of the documents submitted that the applicant, in fact, on the relevant date was on office duty and was not discharging any duty at the CPF gate. Lastly, Mr Choudhury submitted that the inordinate delay in the proceeding has caused injury to his career as the respondents are not taking any steps for considering his case properly.

5. Mr B.S. Basumatary, learned Addl. C.G.S.C., opposing the claim of Mr Choudhury submitted that the proceeding which is since continuing should be allowed to go into a logical conclusion. Whether the applicant was present in the particular gate on the relevant date or not is a matter which can be considered on the evaluation of the relevant facts. Similarly, the Disciplinary Authority can go into the other questions raised by the applicant. When the learned counsel for the respondents was asked about the continuance of the disciplinary proceeding from 1998, whereas, as per the norms laid down by the department such proceedings are to be completed within six months, Mr Basumatary fairly submitted that any departmental proceeding requires to be disposed of at the earliest.

6. We have given our anxious consideration. Admittedly, the allegation pertains to an incident that took place in 1992. The disciplinary proceeding was initiated as far back as 12.2.1998. It does not help in keeping alive a disciplinary proceeding alive for long. Apart from demoralising.....

Attested
W.S.
Advocate.

demoralising the employees, it also affects the administration and to a great extent negate the very purpose of holding the disciplinary proceeding. There is no dispute that such disciplinary proceeding requires to be completed at the earliest. From the minutes of the Inquiry Officer dated 7.11.2000, referred to by the learned counsel for the applicant, it appears that the proceeding was delayed due to non-production of some documents relevant in the proceeding. According to the applicant the charged officials, in fact, went to the CBI office for inspection of documents and the Superintendent of Police, Special Police Establishment informed that the documents were already sent to the Assistant Commissioner (HQ), Customs and Central Excise, Shillong on 2.7.1997 and to that effect the Superintendent of Police, CBI, SPE, Silchar also informed the applicant by communication dated 9.2.2000. Be that as it may, from the minutes of the proceeding it appears that some documents were not made available at least in the proceeding. As alluded earlier, the proceeding should not be kept alive for long. It should come to any end.

7. Considering all the aspects of the matter we accordingly direct the respondents to conclude the enquiry as expeditiously as possible at any rate within three months from the date of receipt of this order. The applicant is also directed to fully cooperate with the Inquiry Officer to complete the disciplinary proceeding within the period specified.

8. As regards the other grievance of the applicant as to the maintainability and legitimacy of the proceeding, these aspects shall also be considered by the Disciplinary Authority and the applicant shall be free to raise any legal issue before the authority and the authority shall have to deal with the same as per law. Regarding the claim of the applicant for his due promotion both under the Assured Career Progression Scheme as well as regular promotion, we are of the view that this is a matter that concerns the administration and we hope the administration shall take necessary steps to that effect. It would also be open to the respondent authority to consider the case of the applicant for promotion if he is eligible under such scheme and the department may take necessary steps

for.....

Attested
W.B.
Advocate

for utilising the sealed cover procedure and/or for providing financial benefit under the Assured Career Progression Scheme irrespective of the disciplinary proceeding.

9. Subject to the observations and directions made above, the application stands allowed. There shall, however, be no order as to costs.

Sd/VICE CHAIRMAN

Sd/MEMBER (A)

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Attested
V. S. M.
Advocate

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Contempt Petition No. 1 of 2002 (In O.A.428/99).

Date of Order : This the 11th Day of June, 2002.

THE HON'BLE MR JUSTICE D.N.CHOWDHURY, VICE CHAIRMAN.

THE HON'BLE MR K.K.SHARMA, ADMINISTRATIVE MEMBER.

Shri Bikash Kumar Saikia,
Inspector (I.C.D), Amingaon,
Customs Division,
Guwahati.

...Petitioner

By Advocate Sri I.Ahmed.

-Versus-

Z.Tochhawang,
Commissioner,
Central Excise, M.G.Road,
Shillong-1.

...Contemner

By Advocate Sri A. Deb Roy.

O R D E R

CHOWDHURY J. (V.C)

By order dated 12.4.2002 the Commissioner, Central Excise was directed to appear in person. On the prayer of the learned counsel for the petitioner the matter was to be posted for hearing at Shillong on 12.6.2002. The Shillong Bench is now cancelled. The petitioner is present today alongwith his counsel Mr I.Ahmed. Mr A.Deb Roy, learned counsel appearing for the respondents has stated that the applicant has already been exonerated from the charges levelled against him by order dated 17.5.2002 and the respondents are considering for ACP as well as regular promotion of the applicant. Mr

Attested
W.M.
Advocate

contd..2

1. Ahmed, learned counsel for the petitioner stated that since the applicant was eligible for consideration for promotion from August 1999 direction may be issued to the respondents to give him the benefit of ACP as well as regular promotion with effect from 9.8.99 and 15.12.2000.

2. We are not inclined to pass any order at this stage, that too in a Contempt proceeding. Since the applicant has now been exonerated let the respondents take necessary measure for compliance of the order by giving the benefit of ACP as well as regular promotion as indicated in the earlier order and as mentioned by the authority in its communication dated 22.5.2002. If the applicant is aggrieved by any order he may challenge those in an appropriate proceeding.

Subject to the observation made above the Contempt Petition stands closed.

Sd/ VICE CHAIRMAN
Sd/ MEMBER (Adm)

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Attested
W.A. M.
Advocate.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application Nos. 18 & 36 of 2003.

Date of Order : This the 16th Day of June, 2003.

THE HON'BLE MR. JUSTICE D. N. CHOWDHURY, VICE CHAIRMAN.

THE HON'BLE MR. R. K. UPADHYAYA, ADMINISTRATIVE MEMBER.

1. Sri Subodh Dhar
S/o Late Aswini Kumar Dhar
Superintendent (Group B)
Office of the Assistant Commissioner
Central Excise, Silchar Division
Circuit House Road
Silchar.

1. Sri James Guite
Inspector
Customs Preventive Post
Churachandpur,
Central Excise.

By Advocates Mr. M. Chanda, G. N. Chakraborty & S. K. Ghosh in
O.A. 18/2003 & Mr. M. Chanda & G. N. Chakraborty in O.A. 36/2003.

Versus -

1. The Union of India
Represented by the Secretary
to the Government of India
Ministry of Finance
Department of Revenue
New Delhi.

2. The Chairman
Central Board of Excise and Customs
Ministry of Finance
Department of Revenue
North Block, New Delhi.

3. The Commissioner of Central Excise
Morelly Compound
Shillong-793001.

4. Sri Rama Kanta Das
Deputy Commissioner (on Ad hoc basis)
Office of the Commissioner
Central Excise & Customs
Shillong.

1. The Union of India
Represented by the Secretary
to the Government of India
Ministry of Finance
Department of Revenue
New Delhi.

2. The Chairman
Central Board of Excise and Customs
Ministry of Finance
Department of Revenue
North Block, New Delhi.

Attested
- *Waran*
Advocate

Contd. /2

3. The Commissioner of Central Excise
Morelly Compound
Shillong-793001.

4. The Deputy Commissioner (V & V)
Central Excise, Shillong.

By Mr. A. Deb Roy, B.E.C.C.I.C. in both the cases.

Q.R.P.R.

CHOWDHURY J. (V.C.):

Both the applications are taken up together for consideration since it involves commonality of facts and common question of law.

1. Both the applicants are serving under the Customs and Central Excise. The applicant in O.A.36/2003 is presently working as Inspector whereas the applicant in O.A. 18/2003 is serving as Superintendent. Disciplinary proceedings under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 were initiated against the applicants as far back as on 19.9.1998. As far as the applicant in O.A.36/2003 is concerned the proceedings against the applicant is initiated as far back as on 12.2.1998 whereas in the other case proceeding is initiated on 21.1.1998. According to the applicants, in both the cases first enquiry proceeding was held on 16.9.1999. It has been stated that common proceeding was initiated against a number of officers including the applicants. The applicants referred the case of Sri R.K. Baikia who was also equally charged with similar misconduct in the common proceeding and finally he was exonerated from the charges and was promoted to the grade of Superintendent Group 'B' as far back on 23.9.2002. Both the applicants now moved this Tribunal assailing the continuance of the proceeding which according to them amounts to persecution. Mr. M. Chanda, learned counsel for the applicants contended that inordinate delay in concluding the proceeding itself is a ground for exonerating the applicants. On merit also, the applicants

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Vas
Advocate

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contended that the facts alleged did not constitute any misconduct against the applicants.

2. Though time granted the respondents did not file written statement. Earlier also we ordered the respondents to file written statement, but that was not filed. We also ordered for production of the records. Mr.A.Deb Roy, learned Sr.C.G.S.C. stated that records are not made available to him till now and today also he prayed for time to file written statement. Mr.Deb Roy stated that ^{the drafted} written statement is forwarded to the respondents but he is yet to receive the same. Mr.Deb Roy referred to the para wise comments and from the para wise comments it appears that in both the cases the enquiry officer submitted his report and forwarded on 7.8.2001 to the Directorate General of Vigilance, New Delhi for obtaining 2nd stage advice from CVC. The D.G.V. further advised the office to collect the remaining documents from the C.B.I. However the C.B.I. could not furnish all the remaining documents till now. The matter was reported to the D.G.V. and 2nd stage advice from C.V.C. through D.G.V. is awaited. In the same para wise comments the respondents also mentioned that Sri B.K.Saikia was exonerated vide C.V.C.'s 2nd stage advice dated 21.2.2002. As regards the promotion of the applicants the respondents stated that in view of the pendency of the vigilance case their case were not considered.

3. We have given our anxious consideration on the matter. The disciplinary proceeding pertains to certain allegations which took place in Manipur as far back on 26.10.1994. The disciplinary proceeding is going on since February, 1998. Seemingly one of the Inspectors Sri B.K.Saikia was exonerated from the charges. In the absence of the enquiry report it could not be ascertained as to whether these officials were found guilty or exonerated. However, fact remains that the disciplinary proceeding is kept going since

Attested
Naren
Advocate.

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1998. It is also a fact that in view of the pendency of the disciplinary proceeding these applicants were not considered for promotion. Materials on record clearly indicated that Enquiry Officer submitted his enquiry report and the same was forwarded to the D.G.V., New Delhi as far back on 7.8.2001. Disciplinary proceeding cannot be continued for an indefinite period. Time limit for passing a final order on the enquiry report is prescribed by the Government of India vide Office Memorandum No. 39/43/70-Ests. (A) dated 8.1.1971. Mr. A. Deb Roy, learned Sr.C.G.S.C. however, submitted that this is a case in which consultation with the C.V.C. is required and the proceeding is kept pending because final stage advice from the C.V.C. is awaited. Even in cases requiring consultation with the C.V.C. and the O.P.G.C. also, every effort is required to ensure that such cases are disposed of as quickly as possible. Administrative expeditiousness as well as public interest also demands expeditious disposal of the disciplinary proceeding. Since the enquiry report was submitted on 7.8.2001 under Rule 15 of the CCS (CCA) Rules, cases need to be disposed within the time framed. No justification is forthcoming for not considering the case of the applicants for promotion till now in view of the Office Memorandum No. 22011/4/91-Ests. (A) dated 14.9.1992. The said Office Memorandum was issued after the decision rendered by the Hon'ble Supreme Court in K.V. Jayakiraman & Others v. Union of India & Others reported in (1991) 4 SCC 109. Guidelines are meant to be obeyed. Even the procedure prescribed for resorting to seal cover proceeding indicated six months time to review of the case. We are not aware as to what steps were taken in this regard.

4. On consideration of all aspects of the matter, we are of the opinion that it is a fit case in which direction is need to be issued on the respondent to take a final decision on the disciplinary proceeding, since the enquiry

Attest-
V.D.
Advocate.

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was concluded in 2001 and the matter is pending before the C.V.C. from August, 2001. Accordingly, the respondents are directed to take a final decision on the disciplinary proceeding against the applicants within a period of one month from the receipt of the order, failing which the proceeding against the applicants shall be deemed to have been set aside and quashed and the applicants shall stand exonerated. The respondents authorities are also directed to take appropriate decision for promotion of the applicants as per law and provide the applicants with all consequential benefits in terms of the conclusion of the disciplinary proceeding.

Subject to the observations made above, both the applications stand disposed.

There shall, however, be no order as to costs.

Sd/ vice-CHAIRMAN
Sd/ MEMBER (A)

N. D. G. (A)
Section Officer (A)
C.A. SECRETARIAL PRACTICE
Gangapur, 28/05/

Adv.
W. D.
Advocate.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH : GUWAHATI.

Guwahati Bench

In the matter of :-
O.A.No197 of 2003

Sri S. Sitlhou Applicant

-Versus-

Union of India & Ors. Respondents

WRITTEN STATEMENT FOR AND ON BEHALF OF RESPONDENTS

NO.1, 2 & 3.

I, Anowar Hussain, Deputy Commissioner, Central Excise, Guwahati do hereby solemnly affirm and say as follows:-

1. That I am the Deputy Commissioner, Central Excise, Guwahati and as such fully acquainted with the facts and circumstances of the case. I have gone through a copy of the application and have understood the contents thereof. Save and except whatever is specifically admitted in this written statement the other contentions and statement may be deemed to have been denied. I authorised to file the written statement on behalf of all the respondents.
2. That with regard to the statements made in paragraph 1 of the application, the respondents beg to state that the benefit of financial up gradation scheme (ACP) could not be considered as vigilance case is pending against the applicant vide Charge Memorandum No.II(10)A/8/CIU-VIG/98/145 dt 12.2.98.
3. That the respondents have no comments to the statements made in paragraphs 2, 3 and 4.1 of the application.
4. That with regard to the statement made in paragraph 4.2 to 4.4 and 4.6 and 4.7 of the application, the respondents beg to state that the vigilance case against the applicant was initiated vide Charge-Memorandum dated 12.2.98 alongwith seven (7) Inspectors following a case booked by the CBI, Silchar (Case No.RC-7(A)/95-SLC) forwarded to this office by the CBI (NE Region), Guwahati. The allegation in brief was that the said

Union of India & Ors
through:- Respondents
by Meena Chawla

24/12/03
Addl. Central Govt. Standing Counsel
C. A. T.
Guwahati

official of Customs while posted at Pallel (Manipur), entered into a criminal conspiracy with certain smugglers and in pursuance of the said conspiracy they had allowed to pass 13 (thirteen) number of trucks on 26.10.94 loaded with smuggled goods like garlic, rice, badam, soyabean, dhania etc. from foreign country viz. Myanmar without seizing the above said smuggled goods and the Customs Officers thereby abused their official position as a public servant and caused pecuniary loss to the Govt. of India and wrongful pecuniary gain to the smugglers. These thirteen loaded trucks were detected and seized by the CBI at Pallel on 26.10.94 and subsequently handed over to the Customs Officials at Imphal on 28.10.94.

In response to the applicant's representation dated 18.8.98 against the Charge Memorandum dated 12.2.98, he was instructed to visit the Office of the Superintendent of Police, CBI (SPE), Silchar to inspect the required documents as those were not available/not submitted by the CBI in this office.

5. That with regard to the statements made in paragraph 4.5 of the application, the respondents beg to state that this is a part of the Departmental Proceedings as per CCS (CCA) Rules, 1965.
6. That the respondents have no comments to the statements made in paragraphs 4.8 and 4.9 of the application.
7. That with regard to the statements made in paragraphs 4.10. to 4.17 of the application, the respondents beg to state that in order to give the full opportunity to the Charged Officer for his self defence he was instructed to visit the office of the CBI (Silchar) to inspect the required document. Unfortunately the CBI could not produce the documents and have stated that the relevant documents have already been sent to the Assistant Commissioner (Hqrs.), Customs and Central Excise, Shillong.

The proceedings of this case delayed due to non-supply of some of the relied upon documents by the CBI. To meet the demand of natural justice the I.O. was directed to complete the inquiry with the available documents. The I.O. submitted his Inquiry

Report and the same was forwarded on 7.8.01 to the Directorate General of Vigilance, New Delhi for obtaining 2nd stage advice from the CVC. The DGV further advised this office to collect the remaining documents from the CBI. However, the CBI could not furnish all the remaining documents till today. The matter has already been reported to the DGV and 2nd stage advice from CVC through DGV is awaited.

It is relevant to mention here that as per the existing instructions of the Govt. of India the cases involving Gazetted Officers or Non-Gazetted Officers linked with Gazetted Officers, the Inquiry Report has to be forwarded to the CVC for their 2nd stage Advice in order to pass the 'Final Order' which is mandatory. Even if the case has to be dropped by the Disciplinary Authority, advice from the CVC in this regard has to be obtained (Annexure-A). In the instant case, it is pending with the CVC for 2nd stage advice since the date of sending the Inquiry Report to the DGV.

Regarding Shri B.K. Saikia, Inspector, it may be mentioned here that he was exonerated vide CVC's 2nd stage advice dated 21.2.02.

8. That with regard to the statements made in paragraphs 5.1 to 5.6 of the application, the respondents beg to state that the Disciplinary Authority cannot make any decision on these points unless the 2nd stage advice is received from the CVC.
9. That the respondents have no comments to the statements made in paragraphs 6 & 7 of the application.
10. That with regard to the statements made in paragraphs 8 & 9 of the application, the respondents beg to state that the applicant was not promoted as there was a vigilance case pending against him.
11. That the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with costs.

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VERIFICATION

I, Anowar Hussain, presently working as Deputy Commissioner, Central Excise, Guwahati being duly authorised and competent to sign this verification do hereby solemnly affirm and state that the statements made in paragraphs ..1.,..3.,..6.....+....9..... of the application are true to my knowledge and belief, those made in paragraphs. ~~2.,..4.,..5.,..7.,..8.~~¹⁰ being matter of record are true to my information derived there from and those made in the rest are humble submission before the Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on the14th day of November 2003 at Guwahati.

Anowar Hussain
DEPONENT

*Deputy Commissioner,
CENTRAL EXCISE
GUWAHATI DIVISION*

DIRECTORATE GENERAL OF VIGILANCE
CUSTOMS & CENTRAL EXCISE
2ND FLOOR, C.R.BUILDING
I.P. ESTATE
NEW DELHI-2.

ENo. V.669/5/93/3188

To

Circular No. 1/98

Dated 14.9.1998

All Commissioners of Central Excise/Customs,
Sir,

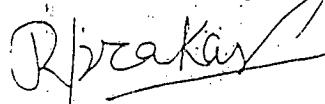
Sub :- CCS (CCA) Rules, 1965 adherence to the
C.V.C.'s advice - Regarding.

-X-X-X-X-X-

According to the instructions, advice of the CVC in respect of Gazetted Officers and similarly, in respect of Gr. "C"/Gr. "D" Officers whose cases are linked with the Gazetted Officers, 1st stage advice of the CVC is required to be obtained for initiation of departmental action. After issue of charge sheet, holding of oral inquiry etc., the advice of the CVC is obtained as the 2nd stage advice regarding the IO's report and the nature of penalty to be imposed.

2. The Disciplinary Authority has to accept the advice of the CVC for imposing the penalty.
3. It has come to the notice of this Directorate General that in certain cases the Disciplinary Authority/Appellate Authority comes to the conclusion to impose a penalty contrary to the advice given by the CVC. In few cases, the Appellate Authority has also modified the Order of the Disciplinary Authority without following the advice of the CVC. The above action of the Appellate Authority is not correct.
4. This Directorate General would like to reiterate that wherever CVC's advice has been obtained for a specific action/penalty, the concerned Disciplinary Authority/Appellate Authority should refer the matter to the CVC through this Directorate General. In cases where the Appellate Authority propose to differ with the decision of the Disciplinary Authority, the same procedure is to be followed. In this connection, a copy of DOP & AR O.M.No.140/2/76-AVDI dtd. 26.8.78 is enclosed for information.
5. These instructions may please be kept in mind by the Disciplinary Authority as well as the Appellate Authority while passing any order in all disciplinary matters.
6. Receipt of this letter may kindly be acknowledged.

Yours faithfully,



(Rajendra Prakash)
Addl. Commissioner (Vig.)


Attested
Addl. G.G.S.C.