

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No:- _____/

Misc Petition No: _____/

Contempt Petition No: 62/2003 in OA-18/03

Review Application No: _____/

Name of the Applicant(s): Sri Subodh Dhar

Name of the Respondant(s): Sri A.K. Singh & ors.

Advocate for the Applicant:- Mr. M. Chandra,
Mr. S. Nath,

Advocate for the Respondant:-
C.G.S.C.

Notes of the Registry	date	Order of the Tribunal
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This application has been filed by the applicant through his L/Advocate with a prayer for initiation of a Contempt proceedings against the alleged contemners for willful non-compliance of the order dt 16.06.03 passed in O.A. - 18/03 and order dt 29.10.03 passed in M.P. No. 89/03.

26.12.2003

Present: Hon'ble Mr Justice B. Panigrahi, Vice-Chairman
Hon'ble Mr K.V. Prahaladan, Administrative Member.

Let a copy of the Contempt Petition be served upon the alleged contemners by Registered Post with A/D within six weeks. Requisites be filed within a week. The matter shall appear for hearing on admission on 13.1.2004.

Laid before the Hon'ble Court for favour of orders.

24.12.03
Section Officer (C).
24/12

K.V. Prahaladan
Member

B.
Vice-Chairman

nkm

Notice & order dt. 26/12/03, sent to D/Section for issuing to respondent No- 1 to 3. Memo No. 911/04.53 to 55 dated 12-1-04

13.1.2004 List the case before the next available Division Bench.

ICV P. S. Datta
Member

bb

25.2.04.

Respondents are granted further one week time to file reply. However, we find that the disciplinary proceedings stood close and the other relief for consideration of promotion of the applicant to be considered on the next date.

List on 9.3.04 for orders.

ICV P. S. Datta
Member(A)

ICV P. S. Datta
Member(J)

pg

9.3.2004 List in the next available Division Bench.

ICV P. S. Datta
Member (A)

mb

30.3.2004. Present: The Hon'ble Sri Kuldip Singh, Judicial Member
The Hon'ble Sri K.V. Prahaladan, Administrative Member

Heard Sri M.Chanda, learned counsel for the petitioner and Sri A Deb.Roy, learned counsel for the respondents. The O.A. was disposed of on 16.6.2003 with the direction that the disciplinary proceeding against the applicant should be finalised within one month from the date of receipt of the order. We have been informed by the learned counsel for the respondents that the disciplinary proceeding has been come to an end and the applicant has been exonerated. By order dated 16.6.03 the respondents were also directed

contd/-

30.3.04 to take appropriate decision for promotion of the applicant with all consequential benefits in terms of the conclusion of the disciplinary proceeding. The learned counsel for the respondents has informed that the process for promotion of the applicant has been initiated and it will take some time.

Let the case be listed before the next available Division Bench.

[Signature]
Member(A)

[Signature]
Member(J)

Pl. comply order
dated 30/3/04.

31/3/04

order dt. 30/3/04
sent to D/Section
for issuing to
learned counsel
of both the parties. 17.6.04.

[Signature]
14/6/04

14.6.04

Reply has been
submitted by the
contemner No. 3.

[Signature]

Present: The Hon'ble Mrs. Bharati Roy, Judicial Member.
Hon'ble Mr. K.V. Prahladan, Administrative Member.

Vide order dated 16.6.03 in O.A.Nos.18 & 36 of 2003 this Tribunal directed the authority to take final decision on the disciplinary proceedings against the applicants within the time specified. The Respondents have filed this M.P.No.89/2003 seeking extension of time to implement the judgment and order dated 16.6.03. But this Tribunal did not allow the M.P. and held that 'since the authority failed to take any decision on the disciplinary proceeding against the applicant within the specified time as per our order dated 16.6.2003 the disciplinary proceeding against the applicant stands abated/quashed and is set aside ~~and~~ declaring that the applicant stood exonerated.' In terms of the order dated 16.6.03 the Respondents are duty bound to consider the case of the applicant for promotion. ^{but} thereafter till to-day no decision has been taken

contd/-

17.6.04. for promotion of the applicant. The learned counsel for the alleged contemnors has informed this Tribunal on 30.3.04 that the process for promotion of the applicant was initiated and it will take some time. But no decision has been taken by the authority. In the facts and circumstances we direct the Respondent No.1 to present before the Court the next available Division Bench. List the case before the next Division Bench.

K.V. Sachidanandan
(Member(A))

J.
Member(J)

22.7.2004 Present: The Hon'ble Shri K.V.Sachidanandan
Member (J).

The Hon'ble Shri K.V.Prahladan
Member (A).

When the matter came ^{up} for hearing, Mr. A.Deb Roy, learned Sr.C.G.S.C. has produced a copy of order dated 7.7.2004 stating that the applicant has already been promoted to the grade of Assistant Commissioner. But Mr. M.Chanda, learned counsel for the applicant, submitted that promotion to the grade of Deputy Commissioner has not been done as yet and the consequential benefits have also not been granted.

On going through the aforesaid order we find the applicant has been promoted to the grade of Assist. Commissioner with all consequential benefits. Learned counsel for the respondents also submitted that compliance to that extent is correct.

Considering the entire aspects, we find that there is substantial compliance of the orders of the Tribunal and therefore the C.P. need not be kept on record. Therefore, the C.P. is closed as observed above.

However, as submitted by Mr.M.Chanda, learned counsel for the applicant, the applicant will always be at liberty to take appropriate recourse to redress his grievance, if any, with regard to his subsequent benefits.

Contd.

Pl. comply order
dated 17.6.04.

JS
18/6/04

order dt. 17/6/04
Sent to D/Section
for issuing to
resp. No - 1 to 3, by
regd. with A/D Post.
lm

Cons
21/6/04

Received on
behalf of Respondent
No. 1, 2 & 3

Prabhat
24/06/04

Contd.

22.7.2004

We find that by our earlier order the Tribunal ordered for personal appearance of Respondent No.1. Mr.A. Deb Roy, learned Sr.C.G.S.C. prays that in view of the compliance of the order the personal appearance of respondent No.1 may be dispensed with. Prayer is accepted. Personal appearance of respondent No.1 is dispensed with.

Notices sent, if any, are discharged.

A copy of order dated 7.7.2004 is to be kept on record.

K.V. Bhowmik
Member (A)

[Signature]
Member (J)

bb

10.8.04

Copy of the
order dt. 22.7.04
handed over to the
Advocate for
the parties.

[Signature]
19/8/04

8
Filed by me Petitioner
through- Subrata Das
Advocate
24.12.03

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

Contempt Petition No. 62 /2003

In O. A. No. 18 of 2003

In the matter of :

Sri Subodh Dhar.

.....Petitioner

-Versus-

Union of India and others.

.....Alleged Contemnors

-AND-

In the matter of :

An Application under Section 17 of the Administrative Tribunals Act, 1985 praying for initiation of a contempt proceeding against the alleged contemnors for willful non-compliance of the order dated 16.06.2003 passed in O. A. No. 18/2003 and order dated 29.10.2003 passed in Misc.Petition no.89 of 2003 in O.A.No 18 of 2003.

-AND-

In the matter of :

Sri Subodh Dhar

Son of Late Aswani Kumar Dhar.

Superintendent (group-B)

Office of the Assistant Commissioner,

Central Exice, Silchar Division, Circuit House
Road, Silchar.

...Petitioner

-Versus-

1. Sri A.K.Singh.
The Chairman,
Central Board of Excise and Customs,
Ministry of Finance, Department of Revenue
Govt. of India.
North Block, New Delhi.
2. Sri M.S.Vinita Rao,
Secretary, Revenue,
Ministry of Finance, Department of Revenue
Govt. of India.
North Block, New Delhi.
3. Sri Z. Tochwang.
The Commissioner of Central Excise.
Morellon compound,
Shillong-793001.

...Alleged Contemnors.

The humble petitioner above named -

MOST RESPECTFULLY SHEWETHS:

1. That the petitioner being highly aggrieved for inordinate delay in concluding the Disciplinary Proceedings and for non consideration of promotion to the post of Assistant Commissioner as well as to the post of Deputy commissioner approached this Hon'ble Tribunal by filing O.A. No.18/2003.
2. That this Hon'ble Tribunal after hearing the contestants and having examined the facts and circumstances of the case was pleased to allow the

Original application no.18/2003 and passed the following directions on 16.06.2003

"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 respondents to take a final decision on the disciplinary proceeding, since the inquiry 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."

Copy of the Judgment and order dated 16.06.2003 is annexed herewith and marked as **Annexure-I**.

3. That the petitioner thereafter submitted representation to the alleged contemnor dated 25.06.2003 enclosing

therewith a copy of the judgment and order dated 16.06.2003 in O.A No 18 of 2003 and praying for implementation of the said order of the Hon'ble Tribunal but the said contemnners neither gave any reply nor have taken any action for implementation of the order.

Copy of the representation dated 25.06.2003 is enclosed and marked as **Annexure-II**.

4. That the respondent authority after receipt of the judgment dated 16.06.2003 passed in O.A.No.18 of 2003 filed Misc. Petition No.89/2003 in O.A.18/2003 praying for further 3 months time for implementation of the Judgment and order dated 16.06.2003. In the said Misc. petition the petitioner /respondents stated that the CVC is in need of further 3 months time to take final decision. Be it stated that the Misc. Petition No.89/2003 in O.A. No. 18/2003 came for hearing before this Hon'ble tribunal on 29.10.2003 and the Hon'ble Tribunal dismissed the prayer for extension of time limit in Misc. Petition No. 18/2003 in O.A.No. 18/2003 on 29.10.2003 with the following observations: -

“----- Considering the facts and circumstances of the case as a whole, we do not find any justification for extension of time to comply with the order. Since the authority failed to take a decision on the disciplinary proceeding against the applicant within the specified time, as per order dated 16.06.2003 the disciplinary

proceeding against the applicant stands abated/quashed is set aside and the applicant stood exonerated----"

That it is stated that Hon'ble tribunal vide its order dated 29.10.2003 passed in M.P 89/2003 have exonerated the applicant, therefore there is no proceeding pending against the applicant.

Copy of the order dated 29.10.2003 is enclosed herewith and marked as **Annexure-III**.

5. That the petitioner thereafter submitted a representation to the alleged contemnor dated 31.10.2003 enclosing herewith a copy of the order dated 29.10.2003 and praying for implementation of the order of the Hon'ble Tribunal. In his representation the petitioner stated that since he has been exonerated by the orders dated 16.06.2003 and 29.10.2003 therefore the authority should consider his promotion to the grade of Asstt. Commissioner at least w.e.f 08.09.1997 as well as to the grade of Deputy Commissioner at least w.e.f the date his junior Sri Ramakanta Das got promotion vide order dated 12.11.2002 with all other consequential benefits including seniority immediately without any further mental torture and injury towards the humble applicant but the said contemnor neither gave any reply nor have taken any action.

Copy of the representation dated 31.10.2003 is enclosed as **Annexure-IV**.

6. That the petitioner begs to state that the alleged contemnors deliberately and willfully did not take any initiative for the implementation of the order dated 16.06.2003 passed in O.A.No.18/2003 and order dated 29.10.2003 passed in M.P.No.89/2003 which amounts to contempt of court and therefore the Hon'ble Tribunal be pleased to initiate a contempt proceeding against the alleged contemnors for willful non-compliance of the Tribunal's orders and further be pleased to punish the alleged contemnors for willful non-compliance of the order dated 16.06.2003 in O.A.No.18/2003 and order dated 29.10.2003 passed in O.A.No.89/2003.
7. That it is a fit case for the Hon'ble Tribunal for initiation of contempt proceeding for deliberate non-compliance of the order dated 16.06.2003 in O.A.No.18/2003 and order dated 29.10.2003 in M.P.No.89/2003 passed by the Hon'ble Tribunal.
8. That this petition is made bona fide and for the ends of justice.

Under the facts and circumstances stated above, the Hon'ble Tribunal be pleased to initiate contempt proceeding against the alleged contemnors for willful non-compliance of the order dated 16.06.2003 passed in O.A.No.18/2003 and order dated

7 12
29.10.2003 passed in M.P.No.89/2003 and further be pleased to impose punishment upon the alleged contemnors in accordance with law and further be pleased to pass any such order or orders as deem fit and proper by the Hon'ble Tribunal.

And for this act of kindness, the petitioner as in duty bound shall ever pray.

AFFIDAVIT

I, Sri Subodh Dhar, Son of Late Aswini Kumar Dhar, aged about 49 years, working as Superintendent (Group B), Office of the Assistant, Commissioner, Central Excise, Silchar Division, Circuit House Road, Silchar, do hereby solemnly declare as follows: -

1. That I am the petitioner in the above contempt petition and as such well acquainted with the facts and circumstances of the case and also competent to sign this affidavit.
2. That the statement made in paragraphs 1-8 are true to my knowledge and belief and I have not suppressed any material fact.
3. That this Affidavit is made for the purpose of filing contempt petition before the Hon'ble Central Administrative Tribunal, Guwahati Bench, in the matter of non-compliance of the Hon'ble Tribunal's order dated 16.06.2003 passed in O. A. No. 18/2003 and order dated 29.10.2003 passed in M.P.No.89/2003 in O.A.No.18/2003.

Identified by

Subrata Dhar
Advocate

Subodh Dhar
Deponent.
Solemnly affirmed and
declared before me on the
20th day of December, 2003.

DRAFT CHARGE

Laid down before the Hon'ble Central Administrative Tribunal, Guwahati for initiating a contempt proceeding against the contemnors for willful disobedience and deliberate non-compliance of order of the Hon'ble Tribunal dated 16.06.2003 passed in O. A. No. 18/2003 and order dated 29.10.2003 passed in M.P.No.18/2003 in O.A.No.18/2003. And further be pleased to impose punishment on alleged contemnors/defendants for willful disobedience and deliberate non-compliance of the order dated 16.06.2003 and 29.10.2003.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH. ANNEXURE-I

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.

. . . Applicant in O.A.18/2003.

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

. . . Applicant in O.A.36/2003.

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
Morello Compound
Shillong-793001.

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

. . . Respondents in O.A.18/2003.

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.

- 10 -

16

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

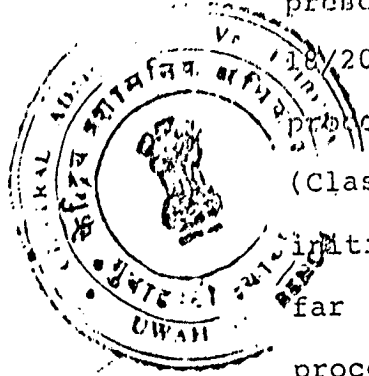
4. The Deputy Commissioner (P & V)
Central Excise, Shillong.. . Respondents in O.A.36/2003

By Mr.A.Deb Roy, Sr.C.G.S.C in both the cases.

O R D E 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 1998. So far as the applicant in O.A.36/2003 is concerned the proceedings against the applicant is initiated as far back 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 B.K.Saikia 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

Contd./3

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 February, 1998. 26.10.1994. The disciplinary proceeding is going on since / 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 authority have kept the pot boiling and remains that the disciplinary proceeding is kept going since

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 2nd stage advice from the CVC is awaited. Even in cases requiring consultation with the C.V.C. and the U.P.S.C. also, every effort is ^{required} to be made to ensure that such cases are disposed of as quickly as possible. Administrative ~~imperativeness~~ 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-Estt.(A) dated 14.9.1992. The said Office Memorandum was issued after the decision rendered by the Hon'ble Supreme Court in K.V.Jankiraman & Others -vs- 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 respondents to take a final decision on the disciplinary proceeding, since the enquiry.

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)

Certified to be true Copy
प्रमाणित प्रतिलिपि

Section Officer (I)
C.A.T. GUWAHATI BRANCH
Guwahati-781003

21.12.03

To

The Commissioner
Central Excise
Shillong

Sir,

Subject: Disciplinary Proceedings against Shri Subodh Dhar
Superintendent, Central Excise - Prayer for
immediate decision as per Order dated 16.06. 2003
of the Hon'ble Central Administrative Tribunal,
Guwahati Bench.

Kindly refer to your Memorandum of Charges dated
13.1.98 communicated vide C.No. II(10)A/2/CIU-VIG/98/61 dated
21.01.98.

Most humbly and respectfully I crave to leave approach
your honour that more than 8 years have been passed from the date
of incident, on the basis of which the above mentioned Memorandum
of Charges was framed against me but no decision has been received
by me till date inspite of several requests, whereas Shri B.K.
Saikia, Inspector who was also charge sheeted on the same incident
vide Memorandum of Charges No. II(10)A/3/CIU-VIG/98/142 dated
12-02-98 has been exonerated vide your Office Order No. 27/2002 (CIU-
VIG) dated 17th May, 2002.

Due to non-finalisation of the above mentioned case I have
been deprived from my due promotions to the grade of Asstt.
Commissioner as well as Deputy Commissioner and lots of my Junior
Officers have been promoted vide Ministry's Order No. 156/2001 dated
31.12.01 and Order No. 149/2002 dated 1.10.02 etc. even my Junior
Officer Shri Ramakanta Das has been promoted to the Grade of Deputy
Commissioner vide Order No. 181/2002 dated 12.11.02. Finding no
other alternative I approached to the Hon'ble C.A.T., Guwahati Bench
and the Hon'ble C.A.T. Guwahati Bench has passed an order on 16.6.03
copy of which is enclosed for your kind perusal and you are
requested to exonerate me from the charges framed against me in the
light of your Office Order No. 27/2002 (CIU-VIG) dated 17.5.2002 as
the ground mentioned in the said order is also applicable in my case
and to take necessary action so that I can get my due promotion to
the grade of Assistant Commissioner as well as Deputy Commissioner
with all consequential service benefits including seniority and
arrear of monetary benefits atleast w.e.f the date of my immediate
junior officer Shri Rama Kanata Das was promoted.

For this act of your kindness I shall ever remain
grateful to you.

Encl: As above (3 sheets)

Yours faithfully,

(SUBODH DHAR)
SUPERINTENDENT

CENTRAL EXCISE: SHILLONG

*Alfred
Frank
Advocate
24.12.07*

21

FORM NO.4

(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWALATI BENCH

ORDERSHEET

Original Application : 18/03

Misc Petition No. : 89/03

Contempt Petition No. : _____

Review Application No. : _____

Applicants:- Union of India Jans

Respondents:- Subodh Dhare.

Advocate for the Applicants:-

Advocate for the Respondents:-

Notes of the Registry

Date

Order of the Tribunal

29.10.2003

Heard Mr.A.Deb Roy, learned Sr. C.G.S.C. for the petitioners and also Mr.M.Chanda, learned counsel for the opposite party.

This application is filed praying for further extension of three months time for implementation of the judgment and order dated 16.6.2003 passed in O.A.36/2003.

Contd.



Accepted
Advocate
24.12.03

Contd.

29.10.2003

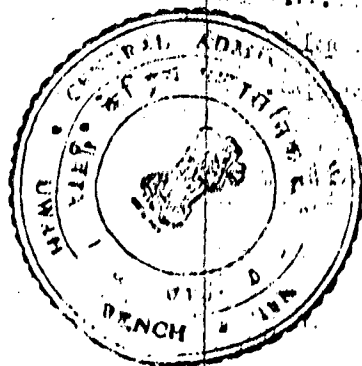
By our order dated 16.6.2003

passed in O.A.36/2003 we directed the authority to take a final decision on on the disciplinary proceeding initiated against the applicant as far back on 21.1.1998 within the time specified. The disciplinary proceeding was concluded in 2001 and the matter was kept pending at the C.V.C. level from August, 2001. By the aforesaid order we directed the authority to decide the disciplinary proceeding initiated against the applicant within one month from the receipt of the order, failing which the proceeding against the applicant was deemed to ^{have been} set aside and quashed and the applicant stood exonerated.

Mr.A.Deb Roy, learned Sr.C.G.S.C referring to his petition, stated that the C.V.C. is yet to take a decision and seeks for further three months time to comply with the order dated 16.6.2003 passed in the aforesaid O.A.

Considering the facts and circumstances of the case as a whole, we do not find any justification for extension of time to comply with the order. Since the authority failed to take a decision on the disciplinary proceeding against the applicant within the specified time, as per our order dated 16.6.2003 the disciplinary proceeding against the applicant is ^{stands abated} set aside and the applicant stood exonerated.

The application thus stands dismissed. No costs.



TRUE COPY
[Signature]

Sd/ VICE CHAIRMAN
Sd/ MEMBER (A)

31/10/03
Section Officer (A)
Central Administrative Tribunal
Guwahati Bench, Guwahati
[Signature]

Allex
[Signature]
24.12.03

27

To

The Commissioner,
Central Excise
Morellow Compound,
Shillong - 1
(Meghalaya)

Subject : Forwarding of representation - regarding.

Sir,

Enclosed please find herewith one representation (in duplicate) addressed to the Hon'ble Chairman, C.B.E.C., New Delhi for your kind perusal and onward transmission with your favourable recommendations.

Yours faithfully,

Encl: As above

(SUBODH DHAR)
SUPERINTENDENT (ANTI EVASION)
CENTRAL EXCISE:::SHILCHAR

(*****)

Heckto
Sank.
Advocate
24.12.13

To
The Chairman,
Central Board of Excise & Customs
Department of Revenue,
Ministry of Finance
North Block, New Delhi - 110 001

(Through Proper Channel)

Subject: Prayer for promotion to the grade of Asstt. Commr.
as well as Deputy Commissioner as per Hon'ble C.A.T.
Guwahati Bench orders dated 16.6.03 and 29.10.03

Sir,

Kindly refer to my representations dated 7.6.02, 21.6.02,
16.9.02, 26.11.02, 28.7.03, 15.10.03 etc.

Most humbly and respectfully I crave to leave approach your
honour that a memorandum of charges was framed against me vide order
dated 13.1.98 of the Commissioner, Central Excise, Shillong
communicated vide C.No. 11(10)/2/CIU-VIG/98/61 dated 21.01.98. The
inquiry officer Shri A. Hussain, Assistant Commissioner has
submitted his report on 6.7.01 and on the basis of that inquiry
report Shri B.K. Saikia, Inspector against whom also a memorandum
of charges was framed on the same incident has been exonerated
vide order No. 27/2002 (CIU-VIG) dated 17.5.02 of the Commissioner,
Central Excise, Shillong (Annexure - I) and Shri B.K. Saikia,
Inspector has been promoted to the grade of Superintendent Gr.'B'
with all consequential benefit long back.

In spite of several representation to the various authorities
I failed to get natural justice from the Department. Finding no
other alternative I approached to the Hon'ble C.A.T., Guwahati
Bench and the Hon'ble C.A.T. has passed an order on 16-06-2003 with
the following observation :-

"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 inquiry 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 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
applicant as per law and provide the applicant with all consequential
benefits in terms of the conclusion of the disciplinary proceeding."
(Annexure-2)

Again on 29-10-2003 Hon'ble C.A.T. has passed an order against
the Writ Petition No. 89/03 submitted by the department with the

Contd..P/2.

*Amrta
Srivastava
Advocate
24.12.03*

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Following observation :-

"Considering the facts and circumstances of the case as a whole, we do not find any justification for extension of time to comply with the order. Since the authority failed to take a decision on the disciplinary proceeding against the applicant within the specified time, as per our order dt. 16-06-2003 the disciplinary proceedings against the applicant is stands abated/quashed, set aside and the applicant stood exonerated."
(Annexure -3)

Now as the disciplinary proceedings against me has been abated/quashed, set aside and I have been exonerated vide above mentioned orders dt. 16-06-03 and 29-10-03 of the Hon'ble C.A.T., Guwahati Bench your honour is cordially requested to consider my promotion to the grade of Assistant Commissioner at least w.e.f. 06-09-1997 i.e. from the date my junior Shri Ramakanta Das got the promotion to the grade of Assistant Commissioner, vide Order No. 156/2001 dated 31-12-2001, as well as to the grade of Deputy Commissioner at least w.e.f. the date my Junior Shri Ramakanta Das got promotion vide Order No. 181/2002 dated 12-11-2002 with all other consequential benefits including seniority immediately without any further mental torture and injury towards the humble applicant.

For this act of your kindness, I shall remain ever grateful to You.

Enclosure:- Annexure 1 to 3.

Yours faithfully,

[Signature]
29.10.03
(SUBODH DHAR)
SUPERINTENDENT (A/E),
CENTRAL EXCISE DIVISION,
CIRCUIT HOUSE ROAD,
SILCHAR -1, CACHAR, ASSAM,
PIN - 788 001.

[Signature]
29.10.03

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<p>IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH</p> <p>14 JUN 2004</p> <p>C.P.NO. 62 OF 2003 IN O.A. NO. 18 OF 2003</p> <p>Shri Subodh Dhar</p>	<p>Vs. Union of India & Others</p> <p>— AND —</p> <p><u>IN THE MATTER OF</u></p> <p>Shri D.D. Ingty</p> <p>.....Deponent</p> <p>Vs. Shri Subodh Dhar</p> <p>.....<u>Opposite Party</u> Petitioner.</p>
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Filed by *Arjun* 14/6/04
 (A. DEB ROY)
 Sr. C. G. S. C.
 A. T. Guwahati Bench

I, Shri D. D. Ingty, Commissioner, Customs (N E R), Shillong, have taken charge of Commissioner, Central Excise, Shillong in addition to my existing post from Shri Z. Tochhawng, Commissioner who retired on superannuation on the 29th February, 2004. Shri Z. Tochhawng is the alleged contemner No. 3. But since Shri Z. Tochhawng has retired and I have taken charge, I do hereby solemnly affirm and say as follows :-

1. That I am acquainted with the facts and circumstances of the case. I have gone through the petition and understood the contents thereof. Save and accept whatever is specifically admitted in this reply, rest of the averments will be deemed to have been denied.
2. That I have the highest reverence and regard for the Hon'ble Tribunal and its order. It may, however, be held on consideration of facts and circumstances of the case that had there been any lapse on my part, than I would have tendered unqualified apology and sincere regret for the same. I cannot even think of doing any act or omission amounting to contempt of Court or disobedience or violation of any order of the Hon'ble Tribunal.

I hold the Hon'ble Tribunal in highest and utmost respect and regard.

3. That I beg to state in view of the Hon'ble Tribunal's order, the petitioner was exonerated from the charges framed against the petitioner.
4. That necessary steps have been taken for giving promotion to the petitioner. The Under Secretary to the Government of India, Ministry Of Finance, Department of Revenue asked the Additional Commissioner (P&V), Customs and Central Excise, Shillong to furnish the vigilance status in prescribed proforma alongwith ACR gradings from 1997 to 2003 vide F.No. C-18011/20/2004-AD.II dated 11.05.2004.
5. That I respectfully submit that there is no willful violation or disobedience to the direction and order passed by the Hon'ble Tribunal.
6. That the contempt petition is misconceived, untenable and hence the notice issued against the respondents requires to be discharged.

The statements made in paras 1 & 2 are true to my knowledge and belief and those made in paras 3 & 4 being matter of records are true to my information derived therefrom and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed or concealed any material fact.

And I sign this affidavit on this day of June, 2004.

Identified by me

Advocate 7/6/04

high
DEPONENT

Solemnly affirmed and declared before me by the deponent, who is identified by Shri A. Debroy, Advocate on this 7.6.2004 day of June, 2004.

Advocate
7/6/04
Advocate