

CENTRAL ADMINISTRATIVE TRIBUNAL

JABALPUR BENCH

(CIRCUIT AT INDORE)

O.A. NO.92/2004

This the 7th day of March, 2005.

HON'BLE SHRI V. K. MAJOTRA, VICE CHAIRMAN (A)

HON'BLE SHRI A. S. SANGHVI, MEMBER (J)

Girish Kumar Bhatnagar S/O Gyaneshwar Prasad Bhatnagar,  
Inspector Central Excise (U.S.),  
Commissionerate Indore,  
R/O Qr. No.13, Central Excise Colony,  
Residency Area, Indore (MP),  
Pin Code 452001.

... Applicant

( By Shri Akash Sharma, Advocate )

-versus-

1. Union of India through  
Secretary, Ministry of Finance,  
North Block, New Delhi-110001.
2. Additional Commissioner (P&V),  
Customs & Central Excise,  
Manik Bagh Place,  
Indore (MP) Pin-452001.
3. Commissioner of Customs &  
Central Excise, Manik Bagh Place,  
Indore (MP), Pin 452001.

... Respondents

( By Shri P. Shankaran, Advocate )

O R D E R (ORAL)

Hon'ble Shri V.K.Majotra, Vice-Chairman (A):

Learned counsel heard.


2. It is pointed out that vide Annexure A-I dated 6.8.1999 in disciplinary proceedings against applicant, the disciplinary authority has imposed a penalty of withholding of promotion for six months from the date applicant becomes eligible for promotion under Rule 11 of the CCS (CCA) Rules, 1965.

3. The learned counsel of applicant drew our attention to the enquiry report dated 5.3.1999 (Annexure A-II-A) whereby the enquiry officer has concluded that the charge framed against applicant was not established

However, the learned counsel contended that the disciplinary authority without communicating any dissenting note and the reasons for dissenting against the conclusion of the enquiry officer proceeded to impose the aforesaid penalty upon the applicant. The learned counsel stated that the procedure adopted by the disciplinary authority is outrightly illegal.

4. The learned counsel of respondents very fairly agreed that the disciplinary authority had not communicated his disagreement with the enquiry officer to applicant. Thus, in our view, the disciplinary authority has not followed the stipulated procedure and without communicating his disagreement with the conclusion of the enquiry officer and the reasons therefor, proceeded to pass the impugned orders inflicting the aforesaid punishment upon the applicant. Obviously, the applicant has not been afforded adequate opportunity of defence and the principles of natural justice have not been followed at all by the disciplinary authority.

5. If one has regard to the discussion made above and the reasons stated above, the impugned order is liable to be set aside. We quash and set aside the same accordingly and remit the case to the disciplinary authority with a direction to him to resume the disciplinary proceedings from the stage of communication of the enquiry report to the applicant by supplying his disagreement note to the applicant and affording him an opportunity of making a representation thereagainst and thereafter pass detailed and speaking orders finalising the enquiry. We further direct that the disciplinary proceedings shall be completed as above within a period



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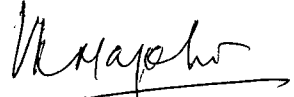


of two months from the date of communication of these orders.

6. The O.A. is disposed of as above. No costs.



( A. S. Sanghvi )  
Member (J)



( V. K. Majotra )  
Vice-Chairman (A)

F. 3.05

/as/