

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

Circuit Sitting : BILASPUR

Original Application No.572/2001

Bilaspur, this the 8th day of December, 2003

Hon'ble Shri M. P. Singh, Vice Chairman
Hon'ble Shri G. Shanthappa, Judicial Member

Benny Joseph
s/o Shri L. Joseph
aged about 39 years
Inspector of Central Excise
in the Statistics Branch
O/o Commissioner, Central Excise
Central Revenue Building
Civil Lines
Raipur - 492 001.

... Applicant

(By Advocate; Applicant in person)

Versus

1. Union of India through
the Secretary
Ministry of Finance
Deptt. of Revenue
North Block
New Delhi.
 2. The Commissioner
Central Excise & Customs
Central Revenue Building
Civil Lines
Raipur.
 3. Shri R.B. Tiwari
Addl. Commissioner
Central Excise & Customs
Pune
through the Chief Commissioner,
Customs & Central Excise
Pune (Maharashtra).
 4. Shri Rakesh Sharma
Superintendent of Central Excise
Range - IV, Raipur
Heerapur, Tatibadh
Raipur (Chhattisgarh).
- ... Respondents

(By Advocate; None)

O R D E R (Oral)



By G.Shanthappa, Judicial Member -

The grievance of the applicant is that the Reporting
Officer has recorded the adverse remarks for the year

Contd.....2/-



1998-99. The reporting officer was the supervisory officer of the applicant. Before recording the adverse remarks a notice was issued to the applicant. The applicant did not respond to the said notice. Accordingly, the applicant has been rated as 'poor'. After recording the adverse remarks, he had reported the matter to the reviewing authority. The reviewing authority has accepted the report vide order dated 25.10.1999 in which he has recorded that "the officer is not prompt in attending to work. The letters are mostly put up only when reminded. The vigilance files allotted to him have not been attended promptly, timely and sincerely. Most of the files remained dormant and no action was found taken by the officer. As a result important files needed immediate attention was transferred to other investigating officer. Mostly drafts put up- always found full of cuttings, mistakes and not as expected from a senior Inspector". He was rated a poor, and ill mannered and indisciplined.

2. The applicant has challenged the aforesaid adverse remarks communicated to him by way of an appeal to the appellate authority. The appellate authority has passed the considered and reasoned order by considering all the allegations made against Shri Rakesh Sharma, who was the Reporting Officer.  Vide Annexure-A-1 dated 17.3.2001 the appellate authority has  also referred the contents of the appeal-memo and also considered the case of the applicant and thereafter passed a reasoned and detailed order rejecting the appeal of the applicant. The case of the applicant is that since the Commissioner himself is a witness to the proceedings, he is not supposed to pass any kind of order entertaining the appeal or rejecting it. Hence, the procedure followed by the respondents is illegal and the relief prayed for shall be granted.


3. The respondents have filed their reply denying the allegations and averments made in the application. They have supported the action taken by the respondents and have submitted that there is no illegality or irregularity committed by the authorities. They have specifically contended that there is


no violation of procedure. Before 90 days from 31.3.1999, notice was given to the applicant for submitting his explanation. After following the procedure, the reporting authority has recorded the adverse remarks. The reviewing authority has considered at length and against which the applicant has preferred an appeal. The appellate authority has also considered and passed a detailed and reasoned order. In that view of the matter, this Tribunal shall not interfere with the impugned order.

4. After hearing the applicant in person and after perusing the records, we are deciding this O.A. in the absence of counsel for the respondents by invoking the provisions of Rule 16 of Central Administrative Tribunal (Procedure) Rules, 1987.

5. The only question in this case is whether the respondents have followed the procedure and principles of natural justice before passing the order? Admittedly, there was a notice to the applicant prior to recording the adverse remarks. Hence the reporting officer has given an opportunity to the applicant before recording the adverse remarks. The reviewing authority has accepted the adverse remarks recorded by the reporting officer. The appellate authority has also considered and passed a detailed and reasoned order considering the grounds taken by the applicant in his appeal memo. In view of the above position, there is no error or illegality or irregularity committed by the respondents. Considering over all facts and records we are rejecting the contentions of the applicant and confirming the orders passed by the respondents.

6. In the result, the O.A. is dismissed, however, without any order as to costs.


(G. Shanthappa)
Judicial Member


(M. P. Singh)
Vice Chairman