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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 22 of 2000

Jabalpur, this the 16th day of February, 2004

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

Anil Kumar Jain, S/o. Shri
S.C. Jain, Inspector Central
Excise, R/o. AF-26, MOG Lines,
Indore - 452002.

... Applicant

(By Advocate - None)

V e r s u s

Union of India, through

1. The Additional Commissioner
(P&V), Central Excise Headquarters,
Manik Bagh Palace, Indore-452001,
(Disciplinary authority)
(Now Re-designated as Joint
Commissioner P&V).
2. The Commissioner, Central Excise,
Headquarters, Manik Bagh Palace,
Indore 452001 (Appellate
Authority).

... Respondents

(By Advocate - Shri S.C. Sharma through Shri Harshit Patel)

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

By filing this Original Application the applicant has sought direction to set aside the impugned orders dated (Annexure A-9) 6.01.1999 and 5.8.1999 (Annexure A-11) passed by the disciplinary authority and the appellate authority respectively.

2. The brief facts of the case as stated by the applicant are that the applicant was working as Inspector in the Central Excise and Customs Department. While he was working as such, disciplinary proceedings were initiated against him. An enquiry officer was appointed to investigate the charges. The enquiry officer has concluded the enquiry holding the charge not proved. The disciplinary authority has sent the

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finding of the enquiry officer to the applicant to submit his representation. The applicant has submitted his representation dated 23.09.1998 requesting the disciplinary authority to accept the findings of the enquiry officer and drop the disciplinary proceedings without any further action. However the disciplinary authority vide its order dated 6.1.1999 has found the applicant guilty and imposed the penalty of stoppage of two increments without cumulative effect. The applicant filed an appeal against the order of the disciplinary authority. The appellate authority vide its order dated 5.8.1999 has rejected the appeal. The applicant in this case has raised issue of violation of principles of natural justice. He has stated that the charges against the applicant has not been proved. The disciplinary authority has ignored the finding of the enquiry officer and imposed the penalty on the applicant. The applicant has submitted that the disciplinary authority has not recorded the reasons for its dis-agreement and has not afforded any opportunity to him to submit his representation against the dis-agreement with the findings of the enquiry officer.

3. The learned counsel for the respondents failed to show us any document, whereby the disciplinary authority has recorded a note of disagreement and which was sent to the applicant for making representation, with the findings of the enquiry officer. Thus the applicant has not been given an opportunity of hearing and the principles of natural justice has been violated by the disciplinary authority.

4. None for the applicant. Since it is an old case of 2000 we propose to dispose of the same by invoking the provisions of Rule 15 of CAT (Procedure) Rules, 1987. Heard the learned counsel for the respondents.

5. As per the Government of India decision under Rule 15

of CCS (CCA) Rules, 1965, if the disciplinary authority takes a contrary view to the findings of the enquiry officer the reasons for such disagreement in brief must be communicated to the charged officer alongwith the report of inquiry so that the charged officer can make an effective representation. This procedure would require the disciplinary authority to first examine the report as per the laid down procedure and formulate its tentative views before forwarding the report of inquiry to the charged officer.

6. Admittedly in this case the disciplinary authority has not recorded the note of disagreement and formulated his tentative view before forwarding the report of the enquiry officer to the charged officer. Thus the procedure laid down under the CCS(CCA) Rules has been violated by the disciplinary authority.

7. Accordingly, the order passed by the disciplinary authority imposing the penalty of stoppage of two increments without cumulative effect is not sustainable in the eye of law, and the same is quashed and set aside. Consequently the order of the appellate authority is also set aside.

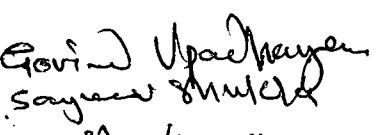
8. Original Application is disposed with the above directions. No costs.

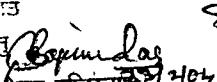

(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman


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पृष्ठांकन सं. ओ/न्या..... जबलपुर, दि.....
प्रतिलिपि दाये पिला:-
(1) संयिक, उच्च क्यायालय कार ए सेरिसन, जबलपुर
(2) आखेदार दी/श्रीनर्ती/यु..... के काउंसल
(3) पत्रक दी/केन्द्री/यु..... के काउंसल
(4) कंसल एवं उपराज्यकार्यालय देव
सचिव एवं आवश्यक कार्यवाही देव
उप रजिस्ट्रार नो/


Govind Upadhyay
SC Mohan


B. R. Bajrangi