

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH : JAIPUR

OA No.481/2005.

Jaipur, this the 26<sup>th</sup> day of July, 2006.

CORAM : HON'BLE MR. M. L. CHAUHAN, JUDICIAL MEMBER.

K. K. Kaushik  
S/o Late Shri Amar Nath Kaushik,  
Aged 54 years,  
R/o 8, Jamna Lal Bajaj Marg,  
C- Scheme, Jaipur.

.. Applicant.

Advocate : Shri S. K. Sharma.

Vs.

1. Union of India  
Through Secretary,  
Ministry of Finance,  
Department of Revenue,  
Central Board of Excise and Customs,  
New Delhi.
2. Deputy Narcotics Commissioner,  
Central Bureau of Narcotics,  
Kota.

.. Respondents.

By Advocate : Mrs. Parinitoo Jain.

: ORDER (ORAL) :

The applicant has filed this OA against the order dated 29.8.2005 whereby the Disciplinary Authority has imposed a penalty of withholding of one increment without cumulative effect for a period of three years on the applicant.

2. Briefly stated, the facts of the case are that the applicant while working as Supervisor in Custom and Central Excise, Jaipur, in the year 1998 recommended sanction of a refund of claim amounting to Rs.1,63,309/- and

Rs.4,78,250/- filed by M/s Kay Polyplast Ltd. Udaipur on 17.8.98. Since the Firm was not entitle to the refund of the aforesaid claim, a charge sheet was issued to the applicant for the contravention of provisions of Rule 3 (1) (ii) and 3 (1) (iii) of the Central Civil Service (Conduct) Rules 1964. The applicant filed reply to the charge sheet issued under Rule 16(1) (b) of CCS (CCA) Rules, 1965. The Disciplinary Authority after considering the matter vide impugned order dated 29.08.2005 imposed the aforesaid penalty. For imposing the aforesaid penalty, the matter was also referred to UPSC for their statutory advice. In the statutory advice rendered on 9.6.2005, the UPSC observed that there was negligence on the part of the charged officer which resulted in irregular sanction of refund amounting to Rs.6,41,559/- to the assessee and also there was a suppression of material information by the CO from being reflected in his note/endorsement which forms the basis of passage of the Refund Order dated 12.10.1998. Therefore, the charge against the CO ~~island forced~~ It is this order which is under challenge in this OA.

3. The main contention raised by the Learned Counsel for the applicant in this OA is that the sanction of refund of the aforesaid amount was paid on the report of Inspector and Range Officer but the applicant alone has been charge sheeted and punished. Thus, it is a clear case of discrimination.

*Ud*

4. Notice of this application was given to the respondents. Respondents have filed detailed reply thereby justifying their action. The respondents have made the following averments in Para 5 F of the ~~Reply~~ :-

"5(f) That the contents of ground (f) are not admitted in the manner stated. The applicant has wrongly stated that the applicant alone had been charge sheeted and no action has been taken against the Range Officer and the Section Officer. The department has also issued charge sheet Memorandum No.9/03 dated 8.4.03 to Shri Man Singh superintendent (now Asstt. Commissioner) and Shri Sunil Ahuja and Shri A. K. Prithiyani Inspectors. The cases of both the Inspectors have already been decided by the Joint Commissioner (P and V) Jaipur I vide his orders dated 12.7.04 and 16.8.04 respectively. Copies of the orders dated 12.7.04 and 16.8.04 are enclosed herewith and marked as Annexure R/3 & R/4. Both the Inspectors have been penalized with withholding of one increment of their pay without cumulative effect under Rule 11 (iv) of the CCS (CCA) Rules 1965. Therefore, the order is neither discriminatory and nor unsustainable."

5. This fact has not been denied by the applicant in the Rejoinder. However, in the rejoinder, the applicant has stated that the Assistant Commissioner who has passed the sanction order on 30.09.1998 has not been dealt departmentally. Learned Counsel for the applicant at this stage submits that he will be satisfied if a direction is given to the appropriate authority to entertain the representation/appeal against the impugned order passed by the Disciplinary Authority, so that the matter can be considered in right perspective and he does not want to press this OA at this stage. It is further argued that the persons who have recommended the refund of the amount namely, Range Officer and Inspector, and who were mainly responsible for the refund of sum of Rs.6,41,559/- to the

SSC has been slightly dealt with inasmuch as they have been imposed a penalty of one increment without cumulative effect for one year whereas in the case of the applicant, the penalty imposed is one increment without cumulative effect for three years. Thus, action of the respondents is arbitrary.

6. I have given due consideration to the submissions made by the Learned Counsel for the parties. I am of the view that ends of justice will be met if the matter is looked into by the higher authority. Accordingly, the applicant is directed to make representation to Respondent No.1 who will place the matter before the Central Board of Excise and customs within a period of two weeks from today. The Board will decided the matter within a period of two months from the date of receipt of representation by passing a speaking and reasoned order. It is made clear that the Tribunal ~~had~~ not expressed any finding on the merit of this case and in case the applicant is still aggrieved, it will be open for him to reagitate the matter again.

7. With these observations, the OA is disposed of with no order as to costs.

  
(M. L. CHAUHAN)  
JUDICIAL MEMBER

P.C./