

**THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR
ORDER SHEET**

APPLICATION NO.: _____

Applicant (S)

Respondent (S)

Advocate for Applicant (S)

Advocate for Respondent (S)

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

10.09.2009

OA No. 102/2009 with MA 94/2009 & MA 281/2009

Mr. Praveen Purohit, Proxy counsel for
Mr. Rajendra Arora, Counsel for applicant.
Mrs. Parinitoo Jain, Counsel for respondents.

OA 102/2009

Heard learned counsel for the parties.

For the reasons dictated separately, the OA is disposed of.

MA 281/2009

This MA has been moved by the applicant thereby praying for change of Shri Sohan Singh, Deputy Commissioner, as Inquiry Officer on the ground that after his transfer, he has proceeded with the inquiry despite the fact that assurance was given to this Tribunal by the learned counsel for the respondents that Inquiry Officer will not proceed with the matter till the matter is disposed of.

Learned counsel for the respondents submits that Shri Sohan Singh has not proceeded with the inquiry and no effective order has been passed.

Since we have disposed of the main OA, we are of the view that no order is required to be passed in this MA, in view of the fact noticed above. Still if the applicant is aggrieved by the appointment of Shri Sohan Singh as Inquiry Officer, it is always open for him to agitate the matter before the Disciplinary authority who may consider the same in accordance with law. It is not permissible for us to interfere at this stage.

Accordingly, the MA is disposed of.

MA 94/2009

In view of the order passed in the ^{MA}MA, no order is required to be passed in this MA, which is accordingly disposed of.

(B.L. KAPRI)
MEMBER (A)

(M.L. CHAUHAN)
MEMBER (J)

AHQ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 10th September, 2009

ORIGINAL APPLICATION NO. 102/2009

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

S.M. Lodha son of Shri Sardar Mal Lodha, Superintendent, Central Excise Division, Chittorgarh, Rajasthan.

....APPLICANT

(By Advocate: Mr. Praveen Purohit proxy to Mr. Rajendra Arora)

VERSUS

1. Union of India through the Chairman, Central Board of Excise & Customs, Ministry of Finance, Department of Revenue, North Block, New Delhi.
2. The Commissioner, Central Excise, Jaipur II, New Central Revenue Building, Statue Circle, 'C' Scheme, Jaipur.
3. Shri Rajesh Gupta, Assistant Commissioner, Central Excise Division, Chittorgarh.
4. Shri R.P. Khandelwal, Deputy Commissioner (AE) & Inquiry Officer, Central Excise Commissionerate II, NCR Building, Statue Circle, C-Scheme, Jaipur.

.....RESPONDENTS

(By Advocate : Mrs. Parinitoo Jain)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

- "(a) to direct the respondents that Memorandum C.No.-II-39(17)Vig./JPR-II/08/744 dated 16.12.2008 passed by Respondent no. 2 (Annex. A/1) issued to the applicant be withdrawn. As the Inquiry Officer has been appointed vide order dated 02.03.2009 (Annexure A/2) to conduct departmental inquiry, it is prayed that appointment of I.O. be kindly set aside.
- (b) The applicant prays for his retransfer to Beawar or any other convenient centre near by Ajmer, in view of the fact that he has been shifted from Beawar to Chittorgarh Range, just after 11 months tenure as against normal

tenure of two years and subsequently also just after one and half months, he had been again shifted to Division office, Chittorgarh.

- (c) The respondent no. 2 be directed to initiate the action at departmental as well as through outside agency such as CVC/CBI against corrupt officers who remained instrumental in causing recurring pecuniary loss to the Government by selecting unsuitable premises on a very high rent setting aside the norms prescribed by the Government in selection of office premises.
- (d) If at all in view of the Hon'ble Tribunal inquiry proceedings may have to be conducted, the same may be directed to be conducted by Commissioner of Enquiries, Govt. of India (working under CVC) or any Commissionerate of Respondent no.1 outside the State of Rajasthan because the applicant has every apprehension that the proceedings and result of the inquiry will be influenced by Respondent no. 2 & 3 to the disadvantage of the applicant.
- (e) Any other order, direction or relief as may be deemed fit, just and proper under the facts and circumstances of the case and are in favour of the applicant may also be passed.
- (f) That the cost of this applicant may be awarded in favour of the applicant."

2. When the matter was listed on 25.03.2009, this Tribunal was of the view that the applicant is not entitled to any relief, as prayed for by him. However, notice was confined only to one aspect whether the inquiry can be entrusted to some other person who is not under the control of Disciplinary Authority. Thereafter, the matter was adjourned from time to time.

3. The respondents have filed their reply. In the reply, the respondents have stated that earlier ~~the~~ Inquiry Officer has been transferred and in his place Shri Sohan Singh, Deputy Commissioner, Central Excise & Customs, has been appointed as Inquiry officer. In Para 5 of the Affidavit, the respondents have stated the reasons as to why the inquiry cannot be entrusted to another authority who is not under the control of the Disciplinary Authority.

4. We have heard learned counsel for the parties. We are of the view that it is not permissible for us to issue mandamus thereby directing the respondents to appoint a particular Inquiry Officer. ^{What} We have to ensure is that Inquiry officer to be appointed should be fair

officer and should be senior officer and disintegrated officer. From the material place on record, it is evident that applicant has made allegation against the Assistant Commissioner, Central Excise & Customs. Now the Deputy Commissioner has been appointed as Inquiry Officer, who is superior authority than the Assistant Commissioner. It cannot be said that Assistant Commissioner will influence the Deputy Commissioner.

5. Thus in view of what has been stated above, we are of the view that the applicant has not made out any case for grant of relief. Accordingly, the OA is disposed of with no order as to costs.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ