

100

8

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

M.P-331/97 ordersheet pg-1

INDEX

O.A/T.A No. 293/96

R.A/C.P No.....

E.P/M.A No. 331/97

1. Orders Sheet O.A-293/96 Pg. 1 to 7
2. Judgment/Order dtd. 29/01/99 Pg. 1 to 8 Disposed
3. Judgment & Order dtd. Received from H.C/Supreme Court
4. O.A. 293/96 Pg. 1 to 23
5. E.P/M.P. 331/97 Pg. 1 to 3
6. R.A/C.P. NIL Pg. to
7. W.S. Pg. 1 to 15
8. Rejoinder NIL Pg. to
9. Reply NIL Pg. to
10. Any other Papers Pg. to
11. Memo of Appearance
~~.....~~
12. Additional Affidavit
~~.....~~
13. Written Arguments
~~.....~~
14. Amendment Reply by Respondents
~~.....~~
15. Amendment Reply filed by the Applicant
~~.....~~
16. Counter Reply
~~.....~~

Additional W.S. pg-1 to-34

Additional W.S. pg-1 to-4

SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

OA No. 273/26

... Idri. A. K. Sircar ... Applicant(s)

- Versus -

... M.O. 1. 2. 08. ... Respondent(s)

... Mr. N. Chaudhury, M. Choudhury ... Advocates for Applicant

... Mr. A. K. Chaudhury, Addl. C.G.S.C. ... Advocates for Respondent

Office Notes Date Courts' Orders

26.12.96 Learned counsel Mr N.

Shillong Chaudhury for the applicant.

Learned Addl. C.G.S.C. Mr A.K.

Choudhury for the respondents.

This case has been brought before me during vacation in Shillong on the ground of urgency. The service of the applicant was terminated with effect from 23.12.1996 by the order dated 20.12.1996. It has been submitted by the counsel for the applicant that the applicant has not yet handed over this charge till date. After hearing both sides I have permitted to move this application before me in Shillong.

Heard Mr N. Chaudhury for admission. Perused the contents of the application and the reliefs sought. The application is admitted. Issue notice on the respondents by registered post. Written statement within six weeks.

List for written statement and further orders on 10.2.1997

This application is in the form and within time
C. F. of Rs. 50/-
deposited vide
IPO/BD No 349521
Dated ... 24.12.96.

Debono
D. Regd. 24/12/96

20-12-96

Notice issued to
the concerned parties
vide D. No. 69, 70, 71, 72

by

26.12.96

Heard Mr N. Chaudhury on the interim relief prayer. Mr A.K. Choudhury opposes grant of any interim order at this stage since the order was given effect to from 23.12.1996. He also submits that he requires instructions from the respondents in this regard. However, after hearing both sides the respondents are directed to maintain status quo as on today with liberty to the respondents to apply for alteration, modification or cancellation.

27.12.96

Requisite copies are submitted for issuing order.

Copy of the order may be furnished to the counsel for the parties.

27.12.96

Copy of the order sent to the Respondent and parties Advocate vide order dt- 26.12.96

nkm

60
Member 26/12/96

6.1.97

60
Member

Memo of appearance filed by the Adl-case Mr. A.K. Chaudhury.

10.2.97
Mr. S.Ali, Sr. C.G.S.C. prays three weeks time on behalf of Mr A.K.Choudhury, Addl. C.G.S.C. Prayer allowed.

List on 3.3.1997 for further orders.

6-2-97

60
Member

Vice-Chairman

1) Notice issued vide No. 293 dated 3.1.97. trd

2) W/s does not claim filed.
on
6/2

Notice duly served
on Respondent No-1&2.

Yours

3.3.97

2 weeks time is granted for filing of written statement.

List on 17.3.97 for written statement and further orders.


Member


Vice-Chairman

27-3-97

Notice duly served
on R. No. 1, 2,
trd
6/3

written statement
has not yet filed.

17-3-97

Further time is allowed on the prayer of Mr. A.K. Choudhury, Addl. C.G.S.C. for filing of the written statement.

List on 31-3-97 for written statement and further orders.


Member


Vice-Chairman

1m

31.3.97

Mr. A.K. Choudhury, learned Addl. C.G.S.C. informs this Tribunal that though he sent the written statement to the respondents in time he has not yet received the same, and therefore, he prays for a short adjournment. We had already granted several adjournments. We are not inclined to grant any further extension of time.

Let this case be listed for hearing on 19.5.97.


Member


Vice-Chairman

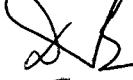
nkm


Member

19-5-97

There is no representation.
List on 4/7/97, for hearing.


Member


Vice-Chairman

1m


Member

23/5

4.7.97

Mr. A.K. Choudhury, learned Addl. C.G.S.C. prays for two weeks adjournment on the ground that he needs some instructions. Mr.

(4)

O.A. 293 of 1996

4.7.97 M. Chanda learned counsel appearing on behalf of the applicant has no objection. Accordingly we adjourn the case till 23.7.97.

6
Member


Vice-Chairman

trd
23/7

23.7.97

The name of the parties are not shown properly. The name of the party is A.K. Singh vs. Union of India & Ors.

List the case on 7.8.97 after correcting the name of the parties and showing the name of the counsel.

28-7-97

Additional Statement
filed by on behalf

6
Member


Vice-Chairman

of the applicant pg
at page 26 to 34.

7.8.97 There is no sitting on
Division Bench. List on

28.10.97


By order

W/S: hs not been filed
Addl. W/S hs not filed.

28-10-97

On the prayer of counsel for the parties case is adjourned till 9-12-97 for hearing.

6
Member


Vice-Chairman

W/S: hs not been filed
Addl. Statement hs been
filed.

1m
29/10

9.12.97 There is no representative
Advised to 27.2.98 for hearing
by and

11-12-97
7/10 An application imp
No. 331/97 filed by
Mr. A.K. Choudhury, Addl
C.G.S.C. with prayer acceptance
W/S. filed by The respondents

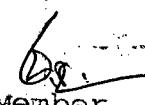
(5)

Off - 293/96

5

Notes of the Registry	Date	Order of the Tribunal
W/S and Addl. W/S has been filed.	27.2.98	Let the case be listed for hearing on 16.6.98. Member
W/S and Addl. W/S has been filed.	16.6.98	Left over. Case to be listed on 13.7.98 by order
W/S and Addl. W/S has been filed.	13.7.98	Adjourned to 31-7-98 by order.
W/S and Addl. W/S has been filed.	31-7-98	Division Bench is not available to-day. Case is adjourned to 24-8-98. Member
W/S and Addl. W/S has been filed.	22.9.98	Division Bench is not available. List on 10.11.98 for hearing. Member
W/S and Addl. W/S has been filed.	10.11.98	Division Bench is not available. List for hearing on 9.12.98. By Order

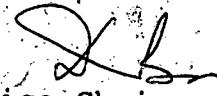
(6)

Notes of the Registry	Date	Order of the Tribunal
<u>29-12-98</u> Addl. statement. Written statement Addl. Written statement has been filed - B/12/98	9.12.98	On the prayer of Mr. A.K.Choudhury, learned Addl. C.G.S.C., the case is adjourned till 30.12.1998. Fix on 30.12.98.  Member
<u>6-1-99</u> Addl. statement - Written Statement Addl. W/ statement has been filed - B/99	30.12.98 trd AS 10/12/98	Mr B.S.Basumatary, the newly appointed Addl.C.G.S.C, submits that he has yet been received the briefs from the Mr A.K.Choudhury and therefore he prays for a short adjournment. prayer allowed List on 7.1.99 for hearing.  Member
<u>12-1-99</u> Addl. Statement - Written Statement Addl. W/ statement has been filed - B/99	3.1.99 pg AS 3/1/2/98	Adjourned to 13-1-99. By order There is no representation. Case is adjourned till 22.1.99.  Member
<u>21-1-99</u> Written Statement Addl. W/ statement has been filed - B/99	22-1-99 nkm 80.11.01	Adjourned to 29-1-99. By order m.
<u>28-1-99</u> Written Statement Addl. W/ Statement - has been filed - B/99		

29.1.99

Heard learned counsel for the parties. Hearing concluded. Judgement delivered in the open court, kept in separate sheets. The application is disposed of. No order as to costs.

61
Member


D. S. Dhami
Vice-Chairman

trd

22.3.99
Copies of the Judgmt
have been sent to
the D/Secy for convey
in line to the parties
through Regd. mail A.P.

trd
Issued vide despatch No.
5 to 979 dt. 24-3-99
Mr.
26-3-99

9

CENTRAL ADMINISTRATIVE TRIBUNAL .

GUWAHATI BENCH : GUWAHATI-5

O.A. No. 293 of 1996

Date of decision 29.1.99

Shri Abdesh Kumar Singh

PETITIONER(S)

Mr. N. Choudhury, Mr. M. Chanda.

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)

Mr. B. S. Basumatary, Addl. C.G.S.C.

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR. JUSTICE D.N. BARUAH, VICE-CHAIRMAN.

THE HON'BLE SHRI G.L. SANGLYINE, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether the Judgement is to be circulated to the other Benches?

Judgement delivered by Hon'ble Vice-Chairman.



10

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 293 of 1996.

Date of order : This the 29th day of January, 1999.

Hon'ble Mr. Justice D.N. Baruah, Vice-Chairman.

Hon'ble Shri G.L. Sanglyine, Administrative Member.

Shri Avdesh Kumar Singh,
Son of late Gorakhnath Singh,
Village/P.O - Nutan Ram Nagar,
Lakhipur, District-Cachar(Assam),
Presently working as Inspector of
Central Excise & Customs, Jorhat

.....Applicant.

By Advocate Mr. M. Chanda.

-versus-

1. Union of India,
(Through Secretary to the
Government of India,
Department of Finance).
2. Central Board of Excise & Customs,
New Delhi
(Through its Chairman).
3. Commissioner of Central Excise,
Shillong.
4. Asstt. Commissioner (Headquarter),
Customs & Central Excise,
Shillong.

.... Respondents

By Advocate Mr. B.S. Basumatary, Addl. C.G.S.C.

O R D E R

BARUAH J. (V.C.).

The applicant at the material time was Inspector, Customs and Central Excise, and posted at Silchar. In the General Election held in April 1996, the applicant being persuaded by the people of his locality decided to contest election. In

B

that view of the matter the applicant submitted resignation on 16.2.1996 from service. In the next month i.e. in the month of March 1996, his resignation was accepted by the authority. He fought the election as a party candidate from Lakhimpur Constituency.

In the election he could not come out successful.

By Annexure- 3 letter dated 16.5.96 he expressed his desire to withdraw his resignation i.e. within a period of 90 days from the date of submission of resignation. An affidavit was (also) filed by the applicant stating interalia that his conduct during that period all along was good. On receipt of the said application the appointing authority, namely, the Assistant Commissioner of Customs and Central Excise, Shillong allowed the applicant to resume duties subject to the approval of Central Board of Excise & Customs, New Delhi. It was also mentioned that he might join only if the terms and conditions mentioned in the said letter was acceptable. Pursuant to that the applicant joined duties and continued to work till 20.12.1996. By Annexure-6 letter dated 20.12.96 his services were terminated as per the order of the Central Board of Excise and Customs vide their letter dated 11.12.1996. Against the said order the applicant has filed this present application.

26

Contd...

2. In due course the respondents have entered appearance and filed written statement repudiating the claim of the applicant. In the written statement respondents have stated that the service of the applicant was terminated on the ground that the applicant had taken part in active politics during the intervening period from the date of resignation till the withdrawal of resignation and therefore he could not be allowed to work. Besides, it was also mentioned that subsequent to his rejoining in the service on 24.6.96 there had been complaints against the applicant to the effect that he had taken advantage of his post for his political gain. Because of this he was transferred from Karimganj to Jorhat.

3. We have heard Mr. M.Chanda, learned counsel appearing on behalf of the applicant and Mr. B.S.Basumatary, learned Addl. C.G.S.C. Mr. Chanda submits that he fulfills all the conditions for rejoining his duties. He further submits that during intervening period he had done nothing which could be termed as improper. Besides, Mr. Chanda has strenuously argued that the appointing authority having allowed him to resume his duties ~~she having~~ he worked for about 6 months, and suddenly he ought not to have been terminated from service without notice and that too with stigma; and in-as-much as it was alleged that he had misconducted himself by taking active part in politics.

R3

Contd..

No enquiry was held. Mr. Basumatary on the other hand submits that even participating in politics during the period from the date of resignation and the date of withdrawal, itself was an improper conduct and therefore the authority had rightly terminated his service. Mr. Chanda further submits that as per Sub rule (4) of Rule 26 of CCS (Pensin) Rules, it is the appointing authority who was to decide as to whether there was an improper conduct and the Central Board of Excise & Customs had no business to look into the matter at least there is no such rule empowering the Central Board in that matter. Mr. Basumatary on the other hand supports the action of the respondents. He further submits that taking part in election itself was an improper conduct. Mr. Basumatary has also drawn our attention to Sub rule (4) of Rule 5 of CCS Conduct Rules, 1964. Referring to the said Rule he tries to emphasize that taking part in politics is improper.

4. On the rival contention of the parties it is now to be seen whether the action of the respondents terminating the service of the applicant by Annexure-6 order dated 20.12.96 can sustain in law. Before we consider the matter it will be apposite for us to see the rules referred to by the counsel for the parties.

R

Contd..

5. Sub rule (4) of Rule 26 of CCS(Pension) Rules prescribes the procedure for withdrawal of the resignation. We quote the sub rule of Rule 26 of CCS(Pension) Rule.

"(4) The appointing authority may permit a person to withdraw his resignation in the public interest on the following conditions namely,

- (i) that the resignation was tendered by the Government servant for some compelling reasons which did not involve any reflection on his integrity, efficiency or conduct and the request for withdrawal of the resignation has been made as a result of a material change in the circumstances which originally compelled him to tender the resignation;
- (ii) (iii) that during the period intervening between the date on which the resignation became effective and the date from which the request for withdrawal was made, the conduct of the person concerned was in no way improper;
- (iii) that the period of absence from duty between the date on which the resignation became effective and the date on which the person is allowed to resume duty as a result of permission to withdraw the resignation is not more than ninety days;
- (iv) that the post, which was vacated by the Government servant on the acceptance of his resignation or any other comparable post, is available.

As per the said rule the conditions necessary to be fulfilled are (a) the resignation was tendered by the Government servant for some compelling reasons

which did not involve any reflection on his integrity, efficiency or conduct and the request for withdrawal of the resignation has been made as a result of a material change in the circumstances which originally compelled him. (b) During the intervening period between the date on which the resignation became effective and the date on which the request for withdrawal was made, the conduct of the person concerned was in no way improper. (c) The period between the date of resignation and withdrawal was not more than 90 days.

6. Sub rule (4) of Rule 5 of CCS (Conduct) Rules 1964 refers to taking part in politics and Election by a Government servant. We quote Sub-rule (4) of Rule 5 of CCS (Conduct) Rules, 1964.

"(4) No Government servant shall canvass or otherwise interfere with, or use his influence in connection with or stake part in an election to any Legislature or Local Authority : connection with or take part in an election to any Provided that -

(i) A Government servant qualified to vote at such election may exercise his right to vote, but where he does so, he shall given no indication of the manner in which he proposes to vote or has voted.

(ii) A Government servant shall not be deemed to have contravened the provisions of this sub-rule by reason only that he assists in the conduct of an election in the due performance of a duty imposed on him by or under any law for the time being in force."

7. Annexure-6 order dated 20.12.1996 passed by the Assistant Commissioner, (Headquarters), Customs and Central Excise, Shillong, respondent No.4 on the ground that the Central Board of Excise and Customs, New Delhi refused to allow withdrawal of resignation tendered by the applicant for taking active part in politics. No independent decision was taken by the appointing

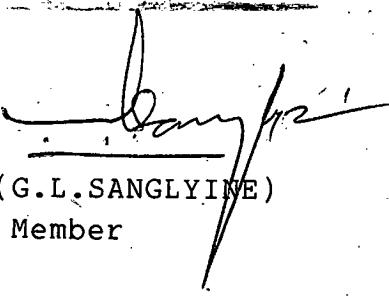
authority. In the written statement also the respondents have acknowledged that the respondent No.4 - Assistant Commissioner (Hqrs.), Customs and Central Excise, Shillong is the appointing authority. As per Sub-rule (4) of Rule 26 of CCS (Pension) Rules, 1972 it is, the appointing authority who has to take the decision not any other authority. Under the rules appointing authority should not be dependent on other higher authority. It has to take decision on its own. If any condition is imposed regarding the opinion of higher authority it becomes otiose.

8. The next question is whether contesting election can be said to be an improper conduct. Sub-rule (4) of Rule 5 of CCS (Conduct) Rules, 1964, Government servant is prohibited to canvass or otherwise interfere with or use his influence in connection with or take part in an election to any Legislature or Local Authority. However the proviso to the said rule empowers the Government servant to vote in the election or to assist election process. Now the question is being in service canvassing for some party candidate or taking part in the election is one thing and after tendering resignation from service fighting election is quite another thing. It does not appear to us that all these aspects have been considered before taking the decision by the respondents. In the present case, the decision was in fact taken by the Central Board of Excise and Customs, New Delhi, which according to us is not the authority to take such decision. Therefore, from the impugned order it appears that the decision was taken by the authority on the advice of the Central Board of Excise and Customs. As we have already indicated that some important aspects had not been taken into consideration at the time of taking the

decision by the authority. We therefore feel those those aspects require examination.

9. In view of the above we dispose of this application with direction to the respondents, namely, respondent No.4, i.e. the appointing authority to decide this matter on its own by a reasoned order. This must be done as early as possible at any rate within a period of 2 months from the date of receipt of this order. It is informed by the counsel of the applicant that the applicant is still working. If so, status quo as on today shall remain till a decision is taken by the authority as indicated above.

10. Considering the facts and circumstances of the case, we however make no order as to costs.


(G.L. SANGLYINE)
Member


(D.N. BARUAH)
Vice-Chairman

trd

18
Filed by Manish

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :::: GUWAHATI.

O.A. NO. 293/96

Avdesh Kumar Singh

.... Applicant.

-Versus-

Union of India and others.

.... Respondents.

List of Dates.

<u>Sl.No.</u>	<u>Date</u>	<u>Particulars</u>	<u>Para</u>	<u>Page</u>
1.	28.8.88	Applicant joined under the respondents as Inspector.	4(ii)	3
2.	<u>16.2.96</u>	Applicant submitted his resignation and subsequently he was released.	4(iii)	4
3.	15.5.96	Applicant submitted an application praying for withdrawal of his resignation.	4(v)	4
4.	<u>21.6.96</u> <u>24.6.96</u> <u>23.7.96</u> 5.8.96	The applicant was allowed to withdraw his letter of resignation and resume his duty at Karimganj. However, he was later transferred to	4(vii)	5

<u>Sl.No.</u>	<u>Date</u>	<u>Particulars</u>	<u>Para</u>	<u>Page</u>
---------------	-------------	--------------------	-------------	-------------

Jorhat where he subsequently joined.

(Annexure - 3 and 4)

5. 21.12.96 Service of the applicant was 4(viii) 6 terminated.

(Annexure - 5)

Prayer : The applicant herein prays for quashing the impugned order of termination dated 21.12.96 and a direction to the respondents to allow him to continue working as Inspector.

24 DEC 1996

Central Bench
সামাজিক ক্ষমিতা

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH.

20

Application U/S 19 of the Assam Administrative Tribunal's
Act, 1985.

OA 293/96.

Andesh Kumar Singh

... Applicant.

- Versus -

Union of India & Ors.

... Respondents.

I N D E X

Sl. No.	Description of documents	Pages.
1.	Application.	1. - 10.
2.	Document No. 1.	11
3.	Document No. 2.	14
4.	Document No. 3.	15
5.	Document No. 4.	21
6.	Document No. 5.	22
7.	Document No. 6.	23
8.	Representation/Resignation	24
9.	Office order of withdrawal/Resignation.	25.

Andesh Kumar Singh
Signature of the Applicant.

For use in Tribunal's Office :

Date of filing :- 24.12.96

Registration No. :- O.A 293/96

Signature of Registrar

fr

4 DEC 1996

Filed by -
Ardesh Kr. Singh
Applicant
Thug
N. Chandra
Arunak
29/12/96

IN THE CENTRAL ADMINISTRATION TRIBUNAL :: GUWAHATI BENCH.

Sri ~~Avad~~esh Kumar Singh
son of Late Gorakhnath Singh,
village/P.O. - Nutan Nam Nagar,
Lakhipur, District - Cachar (Assam).
Presently working as Inspector of
Central Excise & Customs, Jorhat.

.... APPLICANT.

- Versus -

- 1) Union of India
(Through Secretary to the
Government of India,
Department of Finance).
- 2) Central Board of Excise & Customs,
New Delhi.
(Through its Chairman).
- 3) Commissioner of Central Excise,
Shillong.
- 4) Asstt. Commissioner (Head Quarter),
Customs & Central Excise,
Shillong.

.... Respondents.

✓

1.	Central Administrative Tribunal SRI SATYENDRA DUBEY
2.	4 DEC 1996
3.	Central Admin. SRI SATYENDRA DUBEY

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE :

(i) Order No. C.No. II(29) 23/ET.II/Pt/88/ dated 21.12.1996 issued by the Respondent No. 4 terminating the Services of the applicant purportedly on the basis of letter F. No. A-39015/2/96-AD-III-B dated 11.12.96 issued by one Under Secretary to the Respondent No. 2.

(ii) Office Letter F. No. A 39015/2/96-AD-III-B dated 11.12.96 issued by Sri O.P. Ahuja, Under Secretary to the Central Board of Excise and Customs, New Delhi understandably communicating the decision of the said Board i.e. Respondent No. 2 to terminate the service of the applicant without affording any opportunity of hearing to the applicant and without even providing him with a copy of the said letter dated 11.12.96.

2. JURISDICTION OF THE TRIBUNAL :

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

3. LIMITATION :

The applicant further declares that the

24 DEC 1996

General Secretary
State Election Commission

3.

application is within the limitation period prescribed under section 121 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE :

(i) That your applicant is a citizen of India and a permanent resident of the state of Assam.

(ii) That the applicant entered into the service under the Respondents as Inspector of Central Excise and Customs on 23.8.88 and was posted at Lakhipur Range under Silchar Division. Thereafter, I was posted on transfer at Silchar in March, 1994. During the whole tenure of service till date the applicant has earned reputation and satisfaction of all concerned.

(iii) That the applicant hails from Ex-Tea Garden Labourer's Community and because of the fact that he is a Science Graduate from such a backward area inhabited by educationally and socially backward people, the applicant has been a source of inspiration to the members of his community and the said community as a whole look forward at the face of the applicant for their upliftment. On demand of the people of the locality the applicant felt the urge to resign from the service in February, 1996.

4.

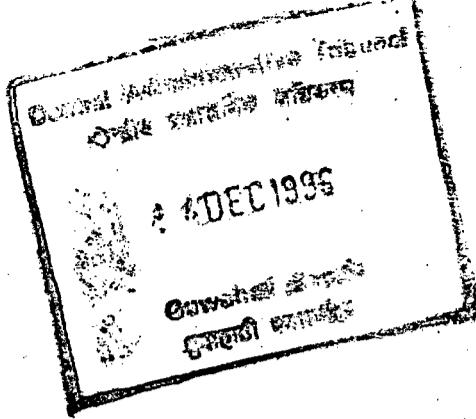
so that he can work for the upliftment of the down trodden. On 16.2.96 the applicant, submitted his resignation for the said purpose and was accordingly released on 29.3.96.

A copy of the release order is annexed herewith
and is marked as Document No. 1.

(iv) That your applicant states that thereafter during general election of the state in the month of April, 1996, the applicant became a candidate for Legislative Assembly Constituency of Lakhipur. However, he was defeated.

(v) That in the meantime, the financial condition of the family of the applicant became very grave necessitating him to review his earlier decision. The applicant is a father of two minor children and he has to bear the expenditure of a family consisting of six members including his aged parent. Under such compelling circumstances, the applicant decided to withdraw his resignation under Rule 26 of the Central Civil Services (Pension) Rules, 1972 and accordingly submitted application praying for withdrawal of resignation on 15.5.96.

A copy of the application with annexure is annexed hereto and is marked as Document No. 2.



(vi) That the applicant states that he had tendered the resignation for the compelling reasons mentioned hereinabove and the same did not involve any reflection in his integrity, efficiency or conduct and the request for withdrawal of his resignation was necessitated as a result of a material change in the circumstances which originally had compelled him to tender the resignation. Be it emphatically mentioned here that ~~was~~ during the intervening period between submitting application for resignation and withdrawal the conduct of the applicant was in no way improper. The period intervening these applications is also only 85 days i.e., less than 90 days. The post vacated by the applicant was also lying vacant. Thus all the requirements of Rule 26(4) of the ~~xxx~~ Central Civil Service (Pension) Rules, 1972 were satisfied in the instant case.

(vii) That upon receipt of the application under Rule 26, and on due consideration thereof, the Respondents allowed the applicant to resume duty on 24.6.96 at Karimganj in pursuance whereof the applicant actually joined on 24.6.96. Thereafter, the applicant was transferred to Jorhat all on a sudden and the applicant reported for joining on 5.8.96.

Copies of letter dated 21.6.96 and 23.7.96 are annexed hereto and are marked as Document No. 3 & 4 respectively.

Anil

24 DEC 1996

Central Admin.
Bihar

6.

(viii) That while working as such with utmost sincerity, the applicant has come to know that the Respondent No. 4 has issued order on 23.12.96 terminating the service of the applicant undoubtedly on the basis of a letter dated 11.12.96 issued by the Respondent No. 2, the content of which is not known to the applicant. The whole move has been made behind the back of the applicant and without affording any opportunity of hearing to him. The impugned order is non est in law for violation of the principles of natural justice.

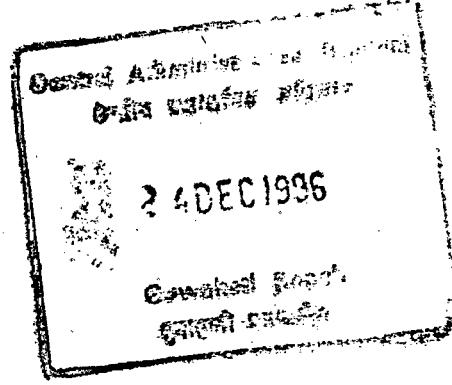
A copy of order dated 23.12.96 is annexed hereto and is marked as Document No. 5.

(ix) That the order dated 23.12.96 has not yet been served on the applicant and as such it has not yet been given effect to. The applicant is still in service.

5. GROUND FOR RELIEF :

(i) For that the impugned order dated 23.12.96 of termination having been passed by Respondent No. 4 who is not appointing authority and is not competent for the purpose, the impugned order is no order in the eye of law.

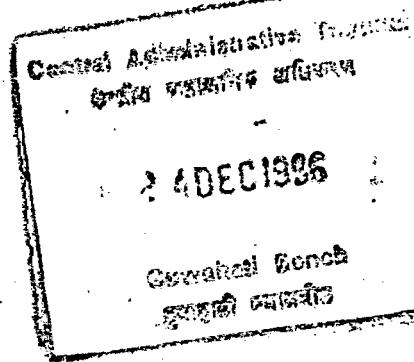
(ii) For that the impugned order dated 23.12.96



having been passed on the basis of letter dated 11.12.96 issued by the extraneous authority who is neither competent nor authorized, the impugned order is vitiated.

- (iii) For that the requirements of Rule 26(4) of the Central Civil Service (Pension) Rules, 1972 having been satisfied in the instant case and the Respondent No. 3 accordingly having allowed the applicant to resume duty on 24.6.96, the impugned order cancelling the resumption is illegal, arbitrary and void.
- (iv) For that the impugned order of termination having been passed without affording any opportunity of hearing to the applicant, the same same is non est in law for violation of the principles of natural justice.
- (v) For that the respondents having allowed the applicant to join cannot resile from the stand and as such the impugned order is bad for estoppel.
- (vi) For that the impugned order not having been passed keeping in view the requirements of Rule 26(4) of the Central Civil Service (Pension) Rules, 1972 the same is liable to be set aside and quashed.

8.



(vii) For that in any view of the matter, the impugned order is liable to be set aside and quashed.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant declares that there is no other alternative efficacious remedy and as such, this application Under Section 19 of the Act is the appropriate remedy as otherwise, the whole process will become infructuous putting the applicant to irreparable loss and injury.

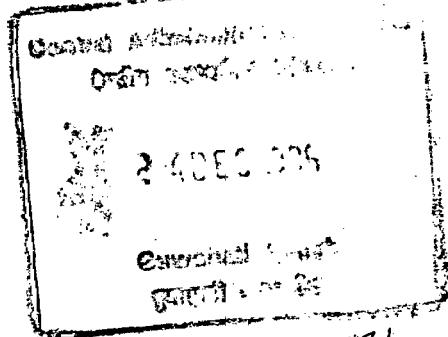
7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT :

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any court or any other authority or any other Bench of the Tribunal for any such application, Writ or suit is pending before any of this.

8. RELIEFS SOUGHT :

In view of the facts mentioned above, the applicant prays that the Hon'ble Tribunal may be pleased to issue notice on the Respondents to show

cause ...



cause as to why the impugned order dated 23.12.96 (Document No. 6) and ~~may~~ impugned letter dated 11.12.96 should not be quashed and why the applicant should not be allowed to continue working as Inspector of Central Excise and Customs and on cause or causes being shown, be further pleased to quash the impugned order dated 23.12.96 (Document No. 6) and letter dated 11.12.96 and/or may pass such further or other order or orders as may deem fit and proper.

9. INTERIM ORDER IF ANY PRAYED FOR :

It is prayed that during pendency of the application, be further pleased to stay operation of impugned order dated 23.12.96 (Document No. 6).

10. Particulars of postal Order in support of Application form.

1.P.O. NO. - 09 349521.

11. LIST OF ENCLOSURES :

1. Appointment letter dated 9.8.88.
2. Release Order dated 29.3.96.
3. Application for withdrawal of resignation dated 15.5.96.
4. Order dated 21.6.96.
5. Order dated 23.7.96.
6. Order dated 23.12.96.

10.

VERIFICATION

I, Avdesh Kumar Singh, son of Late Gorakhnath Singh, aged about 36 years, working as Inspector of Central Excise and Customs in the office of Asstt. Commissioner, Central excise, Jorhat resident of Nutan Rammagar, in the district of Cachar (Assam), do hereby verify that the contents of paragraphs 1 to 4 & 6 11 are true to my knowledge, the same made in paragraph 5 are believed to be true as legal advice and that I have not suppressed any material facts.

Date : 24.12.96

Place : Guwahati.

Avdesh Kumar Singh
SIGNATURE OF THE APPLICANT

Avdesh
Singh

REGISTERED A/D.

OFFICE OF THE COLLECTOR OF
CUSTOMS AND CENTRAL EXCISE, SHILLONG.

C.N.O. 1(X3) FILE 1/88

Dated, Shillong

The 198

OFFICE MEMORANDUM

With reference to his/her application/interview recommendation of the Staff Selection Commission Shri/Smti/Kumari Audesh Kumar Singh is hereby offered a temporary post of Inspector

in the scale of pay of Rs. 1670-60-260D-EB-75-2900/-

plus the usual allowances as sanctioned by the Government of India. His/Her appointment will be subject to the following terms and conditions:

- (i) The appointment is purely temporary and will be governed by the CCS(T.S.) Rules 1965 and is liable to termination without assigning any reason under rule 5 ibid.
- (ii) He/she will be on probation for a period of two years may, however, be extended at the discretion of the appointing authority.
- (iii) He/she will have to comply with requirements of the S.C.S.(Conduct) Rules, 1964 and the Plural Marriage Act. All Rules or orders already in existence or issued from time to time regarding attendance, duties, discipline, conditions of services etc. will automatically be applicable to him/her.
- (iv) He/she should give a declaration of his/her home town for the purpose of L.T.C. within 6(six) months from the date of entry into service.
- (v) He must be willing to serve anywhere within the jurisdiction of this collectorate.
- (vi) He/she shall pass the prescribed Departmental Examination within two years of his/her appointment failure to which may lead to his/her service being terminated.
- (vii) That the seniority of the candidate of direct recruits vis-a-vis promotes will be assigned according to the position of each candidate in roster.
- (viii) His/her retention in service is further subjected to his/her being found suitable for government service in all respect.
- (ix) His/her appointment is subject to the production of Medical Certificate of fitness from the Civil Surgeon/Assistant Commissioner of Health, Government of India.

(Contd.. p.. 2..)

After 1st November 1988

Audesh

(x) He/She is liable to transfer/posting within the Collectorate to which he/she is nominated and under no circumstances his/her request for transfer to any other collectorate will be entertained.

(xi) Applicable to candidates appointed as L.D.C. on compassionate ground.

- (a) The appointment is purely provisional subject to satisfactory policy verification. Repercussions.
- (b) The educational qualification has been relaxed as a special case. He/She has to required requisite educational qualification of Class XI, in two years from the date of appointment.
- (c) He/She should acquire the requisite speed in type writing as failure to pass the type writing test will debar him/her from drawing increments in the pay scale and he/she will not be entitled the confirmation.

2. If the offer is accepted by him/her, he/she should report for duty to the Assistant Collector, Customs & Central Excise, Sircilla of customs and central excise Sircilla immediately but in any case not later than 15 days (Fifteen) days from the date of issue of this offer. If he/she fail to do so, offer of appointment will be treated as cancelled.

3. He/she should submit the following documents alongwith his/her joining report.

- (i) The medical fitness certificate in the form enclosed obtainable from the Civil Surgeon/Assistant Surgeon on production of the enclosed letter to him.
- (ii) The original matriculation certificate and other certificate in support of educational qualification etc.
- (iii) Two certificates of character (in the enclosed form) not more than three months old from two Gazetted Officer.
- (iv) If he/she claims to be a member of scheduled caste/tribe, he/she should submit the original certificate, his/her statement in the enclosed form duly signed by the sub-divisional Officer/District Magistrate/Deputy Commissioner or by a Gazetted Officer of the Central or a state Government and counter signed by the District Magistrate/Deputy Commissioner of the District to which the candidate belongs.
- (v) A declaration in form enclosed regarding marriage.
- (vi) No objection certificate from his/her previous employer and release order from his/her employer accepting his/her resignation.

(contd. on P. 2)

Attached copy
Rehav P.

A. S. S.

Page - 3

4. No travelling or other allowances will be paid to him/her for obtaining the Medical or other certificates or for joining the post.

D. K. Marndi

C.D. K. MARNDI
DEPUTY COLLECTOR (PER & ESTT)
CUSTOMS AND CENTRAL EXCISE :: SHILLONG

To

Shri Anubesh Kumar Singh
Vill & P.O. : Nulam Rupa Nagar
via Lakhimpur
Dist : Cachar (Assam)

*Attested
N Chandru
P.O.*

Anubesh

18. CUSTOMS PREVENTIVE DIVISION, S.I. KARIMGARJ 18

ORDER

In modification of this office order dated 20.3.96
19.3.96 issued under C.No. II (29) 1/PL/ACK/96/367563(A) Dated
20.3.96, Sri Avneesh Kumar Singh, Inspector is hereby relieved of
his duties in the aftermath of 26.3.96 from this Department.
Consequent upon the acceptance of the resignation tendered by
him in terms of the order dated 1.3.96 of the Additional Commissioner
Customs (P.S.Y) Customs and Central Excise, Shillong vide enclo-
sement C.No. II (29) 23/PL.13/PL/96/6165-92(A) dt. 1.3.96.

(M.D.N. HAQUE)
ASSISTANT COMMISSIONER
CUSTOMS PREVENTIVE DIVISION
KARIMGARJ.

C.No. II (29) 23/PL/ACK/96/394-92(A) Dtd. 29.03.96

Copy for information and necessary action to be taken

1. The Commissioner of Customs Preventive, Shillong.
2. The Additional Commissioner (P.S.Y) Customs and Central
Excise Shillong with reference to his order cited above.
3. The Supdt. C.P.P. Officer. He is directed to take the Identity
Card of Sri Singh before delivery his relieve order and
return the same to this office. The copy meant for Sri Singh
is enclosed for delivery.
- ✓ 4. Sri Avneesh Kumar Singh, Insp., Officer C.P.P. He is directed
to surrender his Identity card to the Supdt. of Officer C.P.P.
5. B.I.I. section/Customs/PL.12/Stores/Stores of Divisional office
Karimgarj.

(M.D.N. HAQUE)
ASSISTANT COMMISSIONER
CUSTOMS PREVENTIVE DIVISION
KARIMGARJ.

Attached
Rehamed
24/3/96

Ahmed

To
The Commissioner,
Central Excise
N. E. Region,
Shillong.

Madam,

Subject:- Prayer for withdrawal of resignation
from Service tendered by me on
16.2.96

Reference: (1) My letter of resignation dated
16.2.96 (Photo copy enclosed)
(2) Order dated 1st March 1996 of
acceptance of tendered resigna-
tion by the Additional Commissio-
ner (Prev) Customs & Central Excise
Shillong as communicated under
Cno. II(29)3/PL/ACK/95/357(A)
dated 20.3.96 of the Assistant
Commissioner, Customs Preventive
Division, Karimganj (Photo copy
enclosed)

In inviting your kind attention to the above-quoted
communications on the captioned subject I, most humbly and
respectfully crave leave to beseech your kind and sympathetic
consideration on my following humble prayer seeking withdrawal
of resignation.

- (1) That Madam, as explained in my letter of resignation
dated 16th February 1996 that under unavoidable pre-
sure from the people of the down-trodden Tea-Garden
labour community to which I belong, I, in order to
serve full time for the upliftment of the poor and
neglected people of the area, decided to resign from
service.
- (2) That Madam, my tendered resignation was accepted by
the Additional Commissioner (Prev) Customs & Central
Excise Shillong under his order dated 1st March 1996
which was communicated to me by the Assistant Commis-
sioner, Preventive Division, Karimganj under his
communication under 'Reference No.(2)' above. Following
such acceptance of resignation I was relieved from
my duties on the afternoon of 29.3.96 by the said
Assistant Commissioner.

Attested
Chandray
24/4/96

(3) That Madam, it is pertinent to mention here that in order to ventilate the sufferings of the down-trodden people in the floor of the Legislative Assembly I, under mounting and unavoidable pressure from the people of the Society offered myself as a candidate for being a member of the Legislative Assembly Assam as a nominee of Bharatiya Janata Party which is a recognised Political Party by the Government of India. Unfortunately due to the un-ethical and corrupt practice of money-power that still exists in the game of election to which I am totally un-accustomed and to which I am vehemently opposed I could not win the election. This election game has swallowed up my limited resources that I could save during my span of service.

(4) That Madam, It is not that I was not aware of the fact that in election a heavy amount of risk is involved and that I might not win for which eventuality I must also get my mind prepared. But, Madam, I, as a novice in the line, I was completely at a dark of the magnitude of underhand game and corrupt-practices that inherently prevail in political election. Even if I had won the election I would not have liked to continue as a political man where I have bitterly experienced that integrity, honesty, nay, the morality in man is at high stake. The defeat in the election has given me an opportunity for introspection as to how best I can uphold morality, honesty & integrity in my day to day activities in public.

The humanity, integrity and honesty within me dictate me, Madam, to cut off all connections with present day narrow politics to which I find myself misfit. It is for this reason, Madam, that I want to withdraw my resignation.

(5) That Madam, I understand that under Rule 26(4) of the Central Civil Services (Pension) Rules 1972 the appointing authority has the liberty to act at pleasure to accord permission to the person concerned to withdraw his resignation in public interest within a period of ninety days of the date of effect of resignation under

*Accepted
R. N. Chakraborty
28/10/2018*

under certain conditions. I have sworn-in an affidavit in support of fulfilment of all such conditions of the rule which is filed herewith in original as an enclosure for favour of your kind and sympathetic consideration. Should at any point of time your honour find any incorrectness in my averments in the sworn affidavit I bind myself to any sort of lawful action against me.

My political connection after resignation from Government service as an un-employed ordinary citizen would perhaps not amount to any infringement to the Central Civil Service (Conduct) Rules 1964.

Under the changed circumstances as narrated above I appeal to your honour to be kind and sympathetic enough to permit me to withdraw my resignation so as to enable me to rededicate myself to the service of the Department honestly and sincerely as I did earlier.

And for this act of your kindness I as in duty bound shall ever pray.

Enclo:-

1. Sworn-in-Affidavit
as stated ...
2. Photo copies of the
cited communication . 3.

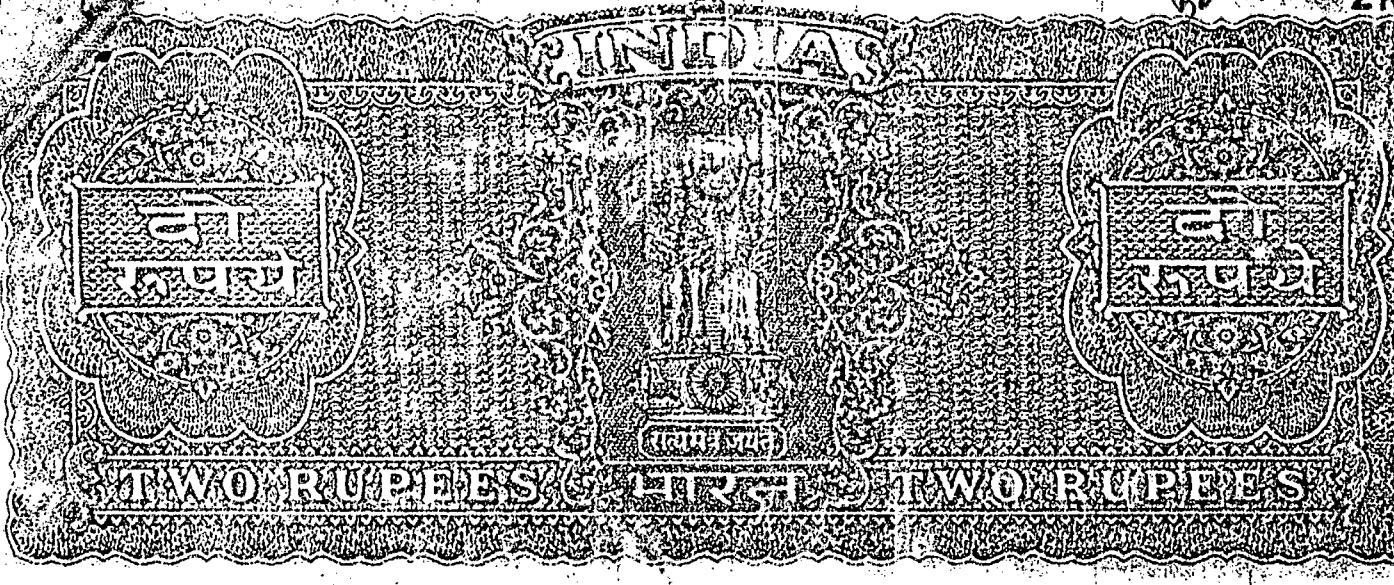
Dated Silchar
the 15th May 1996

Yours faithfully

Audesh Kumar Singh P
(AUDESH KUMAR SINGH)
Ex-Inspector, Central Excise

Address for communication AUDESH KUMAR SINGH
VATI PO - NITYANANDA NAGAR
:- 16 Binuakandiga Lakhipur
Dist. Cachar, Assam

For P
Chair
21/7/96



AFFIDAVIT

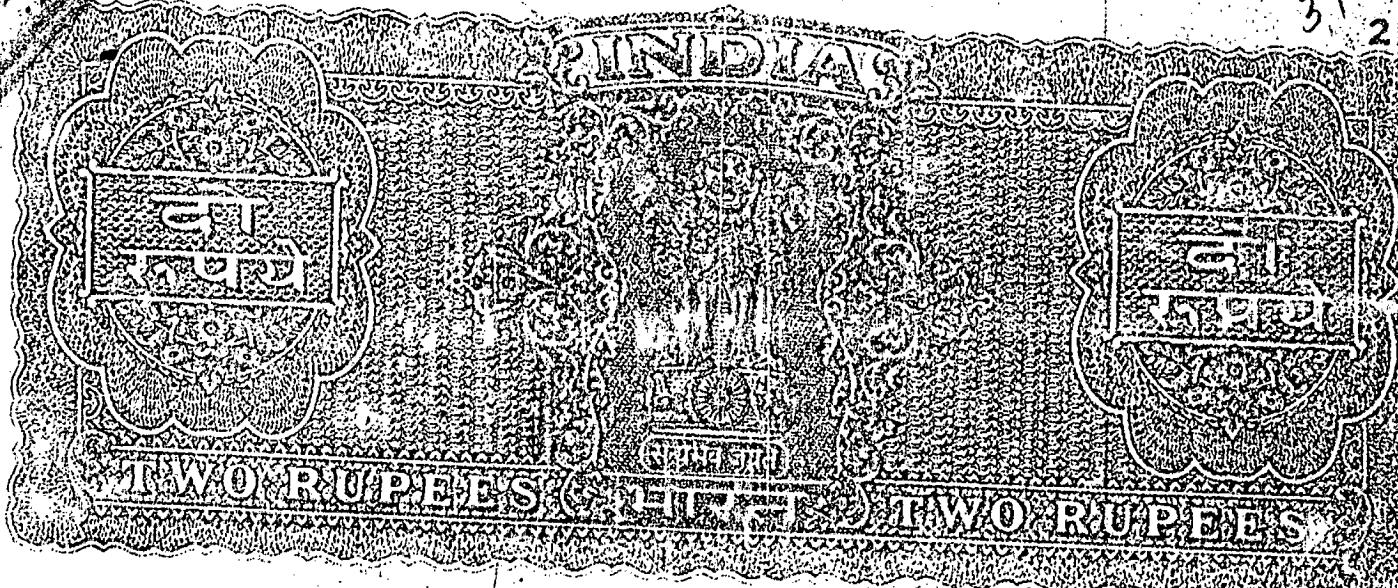
Sri. Narend Kumar Singh aged about -36 years S/O Late Gorain Nath Singh permanent resident of Vill & P.O - Korari P.S - Meria, Dist - Ghazipur, Uttar Pradesh, at present residing permanently at Vill & P.O - Natun Ramnagar, P.S - Sonai, Dist - Dachar, Assam. By faith - Hindu, my profession at present Un-employed having no vocation, Indian by Nationality do hereby solemnly affirm and state as under.

1. That I am permanently residing at the abovementioned present address.
2. That I was an employee under Central Govt. and was in service as an Inspector of Customs and Central Excise under the Commissionerate of Central Excise, Shillong, from 23/5/88 and upto 29/3/96. As on 16/2/96 I had submitted my resignation to my authority from my service. As per my resignation letter dated this order being No - C II (29) 378 I/ACK/95 dated 20/05/96, accepted my resignation.

Cont - P/2

*R. N. Singh
Narend Kumar Singh
24/1/96*

Ansible



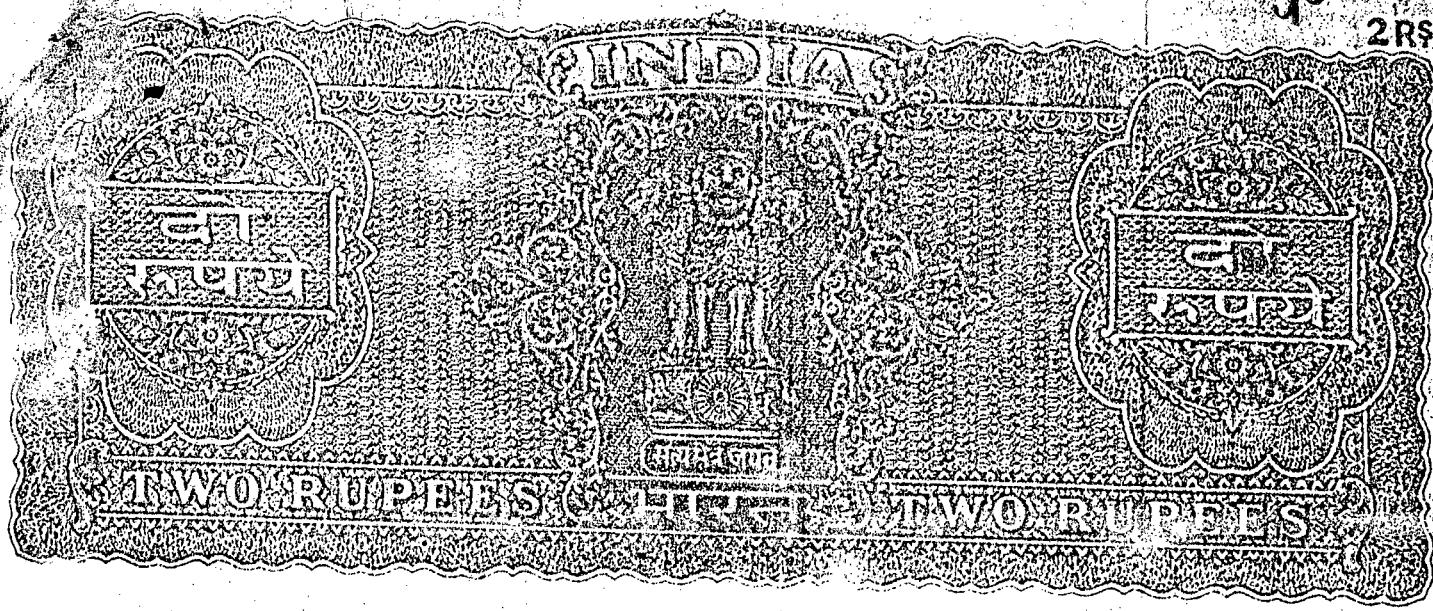
3. That it is on record that I had submitted my resignation on 16/2/96 to the Commissioner of Central Excise, Shillong for some compelled circumstances, which is also best known to the Commissioner. The reason of my resignation had no adverse bearing on my integrity, efficiency or conduct in any manner whatsoever.

4. That while I was in service my performance was to the best of my knowledge had satisfactorily. In course of my service I rendered a good, honest, sincere and un-blemished service all along as my service was the only means to me to subsist on. That subsequent prayer for withdrawal of resignation to the competent authority has been made on the ground of crucial change in the circumstances, which originally compelled me to tender my resignation from my service.

5. That I have not acted in any manner to bring any slur on my continued honest, un-blemished conduct, since I resigned from service which became effective from 30th March 1996.

Cont - p/3

*Affixed
Nehru
24/2/96*



6. That I did not tender my resignation from service for taking up appointment in or under a private Commercial Company or in or under a Corporation or Company wholly or Substantially owned or controlled by the Central or State Government or in or under a body controlled or financed by the State Govt.

The each and every averments made in the above affidavit, all true to the best of my personal knowledge and belief and in proof whereof, I have signed in this affidavit this the 15th day of May 1996 in front of Magistrate being personally presenting at Silchar Court.

Identified by

Deponent Chandra Sekhar
15/5/96
Advocate, Silchar,

Andesh Kumar Singh
DEPONENT

Sworn before me

(Signature)
15/5/96
MAGISTRATE, SILCHAR.

Attested
N. C. S.
24/1/96

Volume No. 4 21-
u

CUSTOMS AND CENTRAL EXCISE : SHILLONG

O R D E R

Dated, Shillong the
21st June, 1996.

Shri Audesh Kumar Singh, Ex-Inspector who had resigned from service w.e.f. 29-03-96 is hereby allowed to withdraw his resignation in pursuance of Rule 26(4) of C.C.S(Pension) Rules, 1972. He may resume duty on or after 24-06-96 but not later than 26-06-96.

Consequent upon the above, the interruption in service shall be deemed to have been condoned but the period of this interruption shall not count as qualifying service as per the provisions of Rule 26(6) of C.C.S(Pension) Rules, 1972.

This order allowing Shri Singh to withdraw his resignation will, however, be subject to the approval of Central Board of Excise & Customs, New Delhi.

If the terms and conditions mentioned in this order is acceptable, Shri Audesh Kumar Singh may join as Inspector in Karimganj Range under Silchar Central Excise Division.

D. Bhattacharyya 21/6/1996

(D. BHATTACHARYYA)
ASSISTANT COMMISSIONER (HQRS.),
CUSTOMS AND CENTRAL EXCISE : SHILLONG

C. No.II(29)23/E.T-II/PL/88/

Dated :-

Copy forwarded for information and necessary action
to :

1. Shri Audesh Kumar Singh, Village & P.O.-NUTAN RAM MAGAR, Via Binnakandi, Lakhipur, District-Cachar, Assam. While joining, he should submit an undertaking to the effect that the terms and conditions mentioned in this order is acceptable to him.

2. The Assistant Commissioner of Central Excise, Silchar Central Excise Division. He should ensure that Shri Singh submits the undertaking as mentioned above at the time of his joining without which he should not be allowed to join.

3. The A.C.A.O./P.A.O., Customs & Central Excise, Shillong.

4. Accounts-II & I / E.T.-I & III/Confidential, C.I.U.-Cum-Vig. Branch of HQRS. Office, Shillong.

5. Guard File.

D. Bhattacharyya 21/6/1996

(D. BHATTACHARYYA)
ASSISTANT COMMISSIONER (HQRS.),
CUSTOMS AND CENTRAL EXCISE : SHILLONG

Attached
N.C. 14/26
24/12/96

LEASER HAND IT OVER TO SHRI K. K. DHAR, ASSTT. COMMSNR., SILCHAR C. EX. BIVE.
CUSTOMS AND CENTRAL EXCISE: SHILLONG

23/7/96
 ESTABLISHMENT ORDER NO. 145/1996
 DATED SHILLONG THE 23RD JUL. 1996

Subject : Estt. Transfer & posting in the
 grade of Inspector - Order No.

Shri Audesh Kr. Singh, Inspector of Customs & Central Excise at present posted at Karimganj Range under Silchar Central Excise Division is hereby transferred & posted to Jorhat Central Excise Divisional Office as Inspector(Tech. Branch) with immediate effect & until further orders.

23-7-96. He should be relieved on the afternoon of posting i.e. at Jorhat Central Excise Divisional Office on or before 05-8-96, failing which it will be construed that he is not interested in holding Government job.

Sd/-

(P. BHATTACHARYYA)
 ASSISTANT COMMISSIONER(HQRS.)

C.NO. II(29) 5/88, III/PL/88/

Dated :

Copy for record for information & necessary action to :

1. The Adm. Com. Officer(Tech.), HQS. Office, Shillong.
2. The Assistant Commissioner of Central Excise Division, Silchar. The copy meant for the concerned officer is enclosed. Adm.
3. The Asstt. Commissioner of Central Excise Divn., Jorhat.
4. Shri Audesh Kr. Singh, Inspector for compliance.
5. The P.I.O./G.A.O. of HQRS. Office, Shillong.
6. Accounts Officer, I & II/Confld. Br./CTU-cum-VIG. Br.
7. The General Secretary, Group 'C' (Executive) Officers' Association, Customs & Central Excise, Shillong. Guard file.

P. Bhattacharyya
 (P. BHATTACHARYYA)
 ASSISTANT COMMISSIONER(HQRS.)

CUSTOMS AND CENTRAL EXCISE: SHILLONG

23/7/96
 AC

After 12/7/96
 AC
 24/7/96

1
 23/7/96

-23-

13

CUSTOMS AND CENTRAL EXCISE : SHILLONG

ORDER

Dated shillong
The 20th Dec. '96

Shri Awdesh Kr. Singh, Inspector who resigned from service w.e.f. 29.3.96, was allowed to withdraw his resignation vide this office order dated 21.6.96 subject to the approval of Central Board of Excise and Customs, New Delhi and, accordingly, Shri Singh, Inspector, accepting the said condition, resigned this department as Inspector on 24.6.96.

Now, the Central Board of Excise and Customs, New Delhi vide their Order dated 11.12.96 from F. No. A-15/2/96-AD-III.B after carefully going through the facts of the case, have refused to allow withdrawal of the resignation tendered by Shri Singh, Inspector for his taking active part in politics in the intervening period.

In view of the above, this Office Order dated 21.6.96 is hereby withdrawn and the services of Shri Awdesh Kr. Singh, Inspector also stands terminated with immediate effect, i.e. from 23.12.96

(D. BHATTACHARYYA)
ASSISTANT COMMISSIONER(HQRS.)
CUSTOMS AND CENTRAL EXCISE :: SHILLONG

C.NO.II(29)25/EI.II/HL/88/1 Dated: 23/12/96

Copy forwarded for information and necessary action to :-

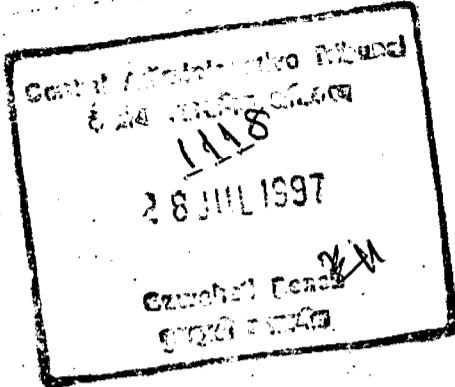
1. Shri O.P. Ahuja, Under Secretary, Central Board of Excise and Customs, New Delhi with reference to his office letter F. No. A-39015/2/96-AD.III.B dated 11.12.96.
2. The Assistant Commissioner of Central Excise, Jorhat C.Ex. Division. The copy meant for Shri Awdesh Kr. Singh, Inspector is enclosed herewith.
3. Shri Awdesh Kr. Singh, Inspector.
4. The P.A.O/A.C.A.O.(Accts.), Customs and Central Excise, Shillong.
5. Accounts I & II/E.I & II/Confld. Br./CLU-cum-VIG. Br. of Hqrs. Office, Shillong.
6. The General Secretary, Group 'C' Executive Officers' Assn., Customs and Central Excise, Shillong.
7. Guard file.

(D. BHATTACHARYYA) 12/96
ASSISTANT COMMISSIONER(HQRS.)
CUSTOMS AND CENTRAL EXCISE :: SHILLONG

Ranjan
Ranjan
Ranjan

26

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH



In the matter of :

Original Application No. 293 of 1996

Sri Audesh Kumar Singh

-versus-

Union of India & Ors.

-And-

In the matter of :

An additional statement submitted by the applicant to rely on certain document and facts not stated or submitted in Original Application.

-And-

In the matter of :

Sri Audesh Kumar Singh

.... Applicant/
Petitioner

-versus-

1. Union of India
(Through Secretary to the Government of India, Department of Finance).
2. Central Board of Excise & Customs, New Delhi (Through its Chairman).
3. Commissioner of Central Excise, Shillong.
4. Asstt. Commissioner (Headquarter), Customs & Central Excise, Shillong.

.... Respondents

Received copy
of K. Chanchal
Addl Cyl SC
28/7/97
28/7/97

27
15

(2)

The humble application on behalf
of the applicant above named -

Most Respectfully Sheweth :

1. That being aggrieved by the order dated 21.12.96 terminating the service of the applicant, the applicant filed the original application before this Hon'ble Tribunal and the same was admitted on 26.12.96 during vacation on special leave. Since, the application was filed in hurry, inadvertently, the applicant could not produce all necessary documents at the time of filing. The applicant understood the same at the time of moving the application and as such this application is being filed for bringing to the record those documents and facts which may kindly be allowed and the applicant may be permitted to rely on this application and the documents filed herein at the time of hearing of the main original application.

2. That the applicant is a confirmed Inspector of Central Excise and his service stood confirmed by order No.27/CON/92 dated 14.12.92. By the same order as many as 58 direct recruit temporary Inspectors were confirmed and the name of the applicant appeared at Serial No.13 thereof. Thus, the applicant being a confirmed employee, the impugned order seeking to terminate his service without affording any opportunity of hearing is fatal and the impugned order is vitiated thereby.

A copy of the order dated 14.12.92 is annexed hereto and is marked as Document No-7.

(3)

3. That the applicant had submitted his resignation on 16.2.96 through proper channel stating that he was urged by the social cause for the upliftment of the people of area in general and downtrodden society in particular. The applicant was compelled by the members of the tea garden community, to which he belongs, to submit his resignation so that he can work for them.

A copy of the resignation letter dated 16.2.96 is annexed hereto and is marked as Document No.8.

4. That the appointing authority, on subsequent application dated 15.5.96 was satisfied that there was change of circumstances necessitating the applicant to withdraw the resignation letter, that the conduct of the applicant during intervening period, i.e., the date of filing resignation and the date of filing application for withdraw thereof was in no way improper, that the post vacated by the applicant was still unfilled and that obviously 90 days were not over as yet since the filing of the resignation. The appointing authority therefore, rightly permitted the applicant to withdraw his fesignation and accordingly he was reinstated.

5. That the respondent No.4, thereafter understandably at the instance of extraneous authority, passed order on a holiday(21.12.96)

seeking to oust the applicant from service. The impugned order as such is ultravires Rule 26(4) of the CCS Pension Rule.

A copy of the impugned order dated 21.12.96 is annexed hereto and is marked as Document -9-

6. That your applicant states that the said order was served on the applicant prior to 26.12.96 and he came to know the order only through his Association. The copy filed alongwith the Original Application (Document No. 6), therefore, was not proper. The applicant, therefore, is filing the proper copy hereby as Document No. 9.

-5-

V E R I F I C A T I O N

I, Shri Avdesh Kumar Singh, son of late Gorakhanta Singh, aged about 37 years, working as Inspector of Central Excise, Jorhat resident of Nutan Ramnagar, in the District of Cachar (Assam), applicant in the Original Application No. 293 of 1996, as such I am well acquainted with the facts and circumstances of the case, do hereby verify that the/statements made here in paragraphs 1 to 6 are true to my knowledge, ~~the same~~ ^{additional} and belief and I have not suppressed any material facts.

Date : 24.12.96

Place : Guwahati

Avdesh Kumar Singh
SIGNATURE OF THE APPLICANT

Document No.7CUSTOMS & CENTRAL EXCISE::: SHILLONGO R D E R N O. 27/CON/92DATED SHILLONG the 14th December 1992

Subject : Confirmation in the grade of Inspector of Central Excise

The following Direct Recruit Temporary Inspectors are hereby confirmed in the grade of Inspectors in the Pay Scale of Rs.1640-60-2600-EB-75-2900 with effect from the date shown against their names :-

<u>Sl.No.</u>	<u>Name of the Officer</u>	<u>Date of Confirmation</u>
	<u>S/ Shri</u>	
1.	Ngairanghan Sanahal Singh	1.4.89
2.	Sanjoy Chettri	3.6.90
3.	Arup Ratan Gupta	3.6.90
4.	Kapil Nath Sharma	23.6.90
5.	Ng.R.K.Singh	23.6.90
6.	Mukul Mahanta	23.6.90
7.	L.J.Synrem(ST)	23.6.90
8.	Gautam Kr.Bhuyan(SC)	28.6.90
9.	Amitava Bhattacharjee No.2	16.8.90
10.	Biron Bhattacharjee	26.12.90
11.	Kh.Marjit Singh	26.12.90
12.	Debasish Banerjee	26.12.90
13.	Audesh Kr.Singh	26.12.90
14.	Subrata Choudhury	26.12.90
15.	Bijan Kr.Das (SC)	26.12.90
16.	S.K.Choudhury	26.12.90
17.	Debajyoti Bhattacharjee	20.2.91
18.	Lalthankung Hmar (ST)	20.2.91
19.	Ashok Kr.Bezborah	20.2.91
20.	R.N.Doloy(ST)	11.4.91
21.	Samir Kr.Majumder	11.4.91
22.	A.Thomas Livingstone	11.4.91
23.	Sarathi Bhusan Roy	11.4.91
24.	Swapan Kr.Das	12.4.91
25.	Jagadish Choudhury	16.11.91
26.	Nirmal Kanta Mitra	16.11.91
27.	Padmadhar Das (SC)	16.11.91
28.	Chung Kholen (ST)	16.11.91
29.	Amiyo Sonowal(ST)	16.11.91
30.	Pankaj Das (SC)	16.11.91

contd.....p/2

(2)

<u>Sl.No.</u>	<u>Name of the Officer</u>	<u>Date of Confirmation</u>
	S/Shri	
31	P.Robin Singh	16.11.91
32	Nizamuddin Ahmed	29.11.91
33	K.M.Mariang (ST)	8.12.91
34	Zamkothang	8.12.91
35	Stephen Nangusushthang(ST)	8.12.91
36	Nangthiankhama (ST)	8.12.91
37	L.Happyson (ST)	8.12.91
38	K.Singson (ST)	8.12.91
39	Tuanzakhup	8.12.91
40	Lalthanliana (ST)	8.12.91
41	W.T.Lotha (ST)	8.12.91
42	T.C.Ngulkhomang (ST)	8.12.91
43	Paul Sanjay Tamang (ST)	8.12.91
44	J.K.Guite (ST)	8.12.91
45	Utpal Bhattacharjee	19.02.92
46	Sudip Bhattacharjee	23.03.92
47	Ashok Kr.Thakuria	23.03.92
48	Sanjib Kr.Saha	23.03.92
49	Krishnendu Das	05.04.92
50	Prantosh Ghosh	05.04.92
51	Amiyo Kr.Das (SC)	01.11.92
52	Amitabha Paul	01.11.92
53	Firozo Gogoi	01.11.92
54	Abhijit Sharma	01.11.92
55	Santanu Deb	01.11.92
56	Sanjay Gupta	01.11.92
57	V.P.Baby	01.11.92
58	P.C.Chacko	01.11.92

The confirmation in respect of S/Shri H.C.Marbaniang(ST) Smt. Truelly Shylla (ST) & Smt. A.Nongbri (ST) will be issued later on.

Sd/- D.D.INGTY
ADDITIONAL COLLECTOR (P & V)

C.NO.II(11)5/ET/76/17801-59 Dated : 16 DEC. 1992

Copy forwarded to :-

1. The Assistant Collector,Customs & Central Excise, Copy meant for the Officer(s) concerned is enclosed for delivery.
2. The Superintendent Of Collectorate Hqrs. Office, Shillong. Copy meant for the officer concerned is enclosed for delivery.
3. The C.A.O/P.A.O. ,Customs & Central Excise, Shillong.
4. ET/I/IV/Accts.I/II of Collectorate Hqrs. Office, Shillong.
5. Shri/Smt. _____, Inspector.
6. Guard file

Sd/- D.D.INGTY
ADDITIONAL COLLECTOR (P & V)

*Attn: Mr
D.D. INGTY
P&V*

Document No.8

To

The Commissioner
 Central Excise,
 N.E.Region,
Shillong

(Through Proper Channel)

Madam,

Subject : Resignation from service for serving humanity at large-Regd.

I have the honour to place before your good office the following few facts for favour of your kind consideration

That Madam, with extreme pleasure and satisfaction I have served this Department of which you are a-t the helm of affairs and with all my humble means and capacity I devoted myself entirely for the interest to the cause of the Government and public alike ;

That Madam, I come from a very down trodden and neglected society here and have been brought up in the Tea Garden labour community, which is still now being looked down upon by the higher schelon;

That Madam, urged by the social cause for the upliftment of the people of this area in general and down trodden society in particular and on pressure from mass people, I feel it my duty to stand by their side at this stage of my life.

That Madam, in view of the above, I have decided to resign from service with immediate effect to serve the cause of the people which I am unable if I am in Government service;

I earnestly request you to kindly accept my resignation forthwith. There is no Government dues to be paid by me.

With high regards,

Dated, Silchar,

February, 1996.

Yours faithfully,
 Sd/- Aadesh Kumar Singh
 Inspector,
 C.P.F. Silchar,
Karimganj Division



Document No.9**CUSTOMS AND CENTRAL EXCISE :: SHILLONG**ORDERDated Shillong
The 20th Dec. '96

Shri Awdesh kr.Singh, Inspector who resigned from service w.e.f. 29.3.96, was allowed to withdraw his resignation vide this office order dated 21.6.96 subject to the approval of Central Board of Excise and Customs, New Delhi and, accordingly, Shri Singh, Inspector, accepting the said condition, rejoined this department as Inspector on 24.6.96.

Now, the Central Board of Excise and Customs, New Delhi vide their order dated 11.12.96 from F.No.A-39015/2/96 AD-III.B. after carefully going through the facts of the case have refused to allow withdrawal of the resignation tendered by Shri Singh, Inspector for his taking active part in politics in the intervening period.

In view of the above, this Office Order dated 21.6.96 is hereby withdrawn and the services of Shri Awdesh Kr.Singh, Inspector also stands terminated with immediate effect i.e. from 23.12.96 (A/N).

Sd/- D.BHATTACHARYYA

21/12/1996

Assistant Commissioner (Hqrs.)
Customs and Central Excise :: Shillong

C.NO.II(29)23/ET.II/PL/88/ Dated : 21.12.96

Copy forwarded for information and necessary action to :-

1. Shri O.P.Ahuja, Under Secretary, Central Board of Excise and Customs, New Delhi with reference to his office letter F.No.A-39015/2/96-AD.III.B.dated 11.12.96
2. The Assistant Commissioner of Central Excise, Jorhat C.Ex Division, The copy meant for Shri Awdesh Kr.Singh, Inspector is enclosed herewith.
3. Shri Awdesh Kr.Singh, Inspector.
4. The P.A.O./A.C.A.O.(Accts.), Customs and Central Excise, Shillong.
5. Accounts I & II/ET.I & II/Confld.Br.,/CIU-cum-VIG.Br, of Hqrs. Office, Shillong.
6. The General Secretary, Group 'C' Executive Officers' Association, Customs and Central Excise, Shillong.
7. Guard file.

Sd/- D.Bhattacharyya,

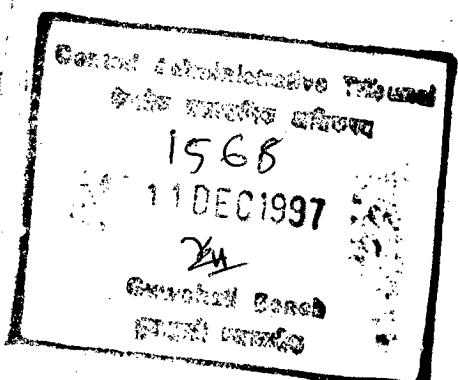
21/12/1996

Assistant Commissioner (Hqrs.)
Customs and Central Excise :: Shillong

*Shillong
21/12/96*

Filed by:-
R.K. Choudhury
H.O. C.G. S.C.
10/12/97

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH



In the matter of :-

O.A. No. 293 of 1996

A.K. Singh Applicant

-Versus -

Union of India & Others

..... Respondents.

Written statement for and on behalf
of Respondent Nos. 1, 2, 3, & 4,

I, Sri R.K. Sankar, Superintendent (Law) Central -
Excise, ^{Ho Law Cell} _____, Guwahati, do hereby solemnly
affirm and say as follows :

1. That I am the Superintendent (Law), Central
Excise, Guwahati Division, Guwahati and am acquainted with
the facts and circumstances of the case. I have gone
through a copy of the application and have understood the
contents thereof. Save and except whatever is specifically
admitted in the written statement, the other contentions
and statements made in the application may be deemed to
have been denied, I am authorised and competent to file
this written statement on behalf of the respondents.

2. That the respondents beg to state the brief facts
of the case as follows :-

That the applicant, Inspector of this Department

Revised
R.K.
10.12.97

-2-

vide his application dated 16.2.96 tendered his resignation with view to take part in active politics and became a candidate of BJP for the Assam State Assembly from Lakhimpur constituency. Then, he lost the election and, consequently requested Respondent No.3 to allow him to withdraw the resignation tendered by him. As permission in such cases are to be had from the highest authority i.e., the Board Respondent No.2 in view of the extra ordinary circumstances in this case i.e., for taking part in active politics. Respondent No.3 allowed him to withdraw his resignation mentioned above subjecting the same to the final approval of the Board and the applicant accepting this condition rejoined this department on 24.6.96.

However, the Board, subsequently disallowed withdrawal of his resignation for his taking part in active politics and hence order was issued terminating the services of the applicant and hence the case. It might be mentioned here that subsequently to his rejoining in service on 24.6.96, there were complaints against the applicant of his using his post to conduct political activities which resulted in his transfer from Karimganj to Jorhat.

3. That the respondents have no comments to the statements made in paragraphs 4(i), 4(iii) and 4(iv) of the application.

4. That with regard to the statements made in paragraph 4 (ii) of the application, the respondents beg to state that the 1st part of the paragraph 4(ii) is matter of record

-3-

and hence the respondents have nothing to reply. However, the respondents deny the statement in the last sentence of para 4 (ii) and beg to state that the applicant tendered resignation with effect from 16.2.1996 to take part in active politics and became a candidate of BJP for the Assam State Assembly from Lakhipur constituency. Then, he lost the election and, consequently requested Respondent No.3 to allow him to withdraw the resignation tendered by him. As permission in such case are to be had from the highest authority i.e., the Board in view of the extra ordinary circumstances in this case i.e., for taking part in active politics. Respondent No.3 allowed him to withdraw his resignation mentioned above subjecting the same to the final approval of the Board and the applicant accepting this condition rejoined this department on 24.6.96.

However, the Board, subsequently disallowed withdrawal of his resignation for his taking part in active politics and hence order was issued terminating the service of the applicant and hence the case. It might be mentioned here that subsequent to his rejoining service on 24.6.96, there were complaints against the applicant of his using his post to conduct political activities which resulted in transfer from Karimganj to Jorhat.

5. That with regard to the statements made in paragraph 4(v) and 4 (vi) of the application, the respondents beg to state that as per Rule 26 (4) of C.C.S. (Pension) Rules,

-4-

1972 a resignation tendered by a Central Govt. Servant can be allowed to be withdrawn subject to the fulfilment of the three conditions mentioned below :-

- (i) That the resignation was tendered by the Govt. servant for some compelling reasons which did not involve any reflection in his integrity, efficiency or conduct and the request for withdrawal of the resignation has been made as a result of a material change in the circumstances which originally compelled him to tender the resignation.
- (ii) That during the period intervening between the date on which the resignation became effective and the date from which the request for withdrawal was made the conduct of the person concerned was in no way improper.
- (iii) that the period of absence from duty between the date on which the resignation became effective and the date on which the person is allowed to resume duty as a result of permission to withdraw the resignation is not more than 90 days.

The applicant had resigned from service with a view to take part in active politics and subsequently when he requested to allow him to withdraw his resignation, it was necessary for the Govt. to decide his request as per existing Rules. Since such a case had to be decided by

-5-

the highest authority i.e. Central Board of Excise and Customs, New Delhi in view of the extra ordinary circumstances, Respondent No. 4 had provisionally allowed him to withdraw his resignation to ensure that the case does not become time barred as imposed vide Rule 26(4) of C.C.S. (Pension) Rules/72 subjecting the same to final approval of the Board and the applicant accepting inter alia the said condition rejoined service on 24.6.96 vide his undertaking dated 24.6.96.

A copy of the letter dated 24.6.96 is enclosed hereto and marked as Annexure R-I.

The Board, vide their order dated 11.12.1996 from F. No. A-39015/2/96-AD-III-B, after carefully going through the facts of the case refused to allow withdrawal of the resignation tendered by the applicant for his taking part in active politics in the intervening period and, accordingly this officer order dated 21.6.96 mentioned above too withdrawn vide this Office Order dated 20.12.96 (Copy enclosed and marked as Annexure R-2). It might be pertinent to mention here that subsequent to his rejoining service on 24.6.96, there were complaint against the applicant that he was using his post to conduct political work which led the respondents to transfer him from Karimganj to N Jorhat, Assam. As such, it would be evident that the termination of the applicant from service was in no way improper and also that he rejoined service accepting

the condition that permission allowing the withdrawal of his resignation vide this office order dated 21.6.96 will be subject to the approval of the Board, there was no question giving him opportunity of hearing subsequent to the denial by Board vide their order dated 11.12.1996 mentioned above, neither it can be termed as has been done behind the back of the applicant. The administration has acted according to the conditions on which he was allowed to rejoin service only.

6. That with regard to the statements made in paragraph 4(vii) of the application, the respondents beg to state that as has been clarified above the transfer was ordered due to complaints received against the applicant.
7. That with regard to the statement made in paragraph 4 (viii) of the application, the respondents beg to reiterate the statements made in paragraph 5 of this written statements.
8. That with regard to the statement made in paragraph 4(ix) of the application the Respondents beg to state that the applicant stood terminated with effect from 23.12.96 but the said order of termination could not be served before 26.12.96 as the applicant was on leave.
9. That with regard to the statements made in paragraph 5 (i) and 5(ii) of the application the respondent beg to state that the Respondent No.4, the Assistant Commissioner (Hqrs.), Customs and Central Excise, Shillong

has been the designated appointing authority for this Commissionerate and the appointing authority by issuing the said order dated 20.12.1996 and not 23.12.96 as mentioned by the applicant, has not acted beyond his power.

10. That with regard to the statements made in paragraph 5 (iii) of the application the respondents beg to state that as has been mentioned in paragraph 4 of this written statements above, the impugned order was issued as per the condition stipulated in the office order dated 21.6.96 (copy enclosed as Annexure R-3) to which the applicant agreed to abide by.

11. That with regard to the statements made in paragraph 5 (iv) 5 (v) and 5 (vi) of the application, the respondents beg to state that as per Rule 26(1) of C.C.S. (Pension) Rules, 1972 a resignation tendered by a Central Govt. Servant can be allowed to be withdrawn subject to the fulfilment of the three conditions mentioned below :

(i) That the resignation was tendered by the Govt servant for some compelling reasons which did not involve any refection in his integrity, efficiency or conduct and the request for withdrawal of the resignation has been made as a result of a material change in the circumstances which originally compelled him to tender the resignation.

(ii) that during the period intervening between the date on which the resignation became

-3-

effective and the date from which the request for withdrawal was made the conduct of the person connected was in no way improper.

(iii) that the period of absence from duty between the date on which the resignation became effective and the date on which the person is allowed to resume duty as a result of permission to withdraw the resignation is not more than 90 days.

The applicant had resigned from service with a view to take part in active politics and subsequently when he requested to allow him to withdraw his resignation, it was necessary for the Govt. to decide ~~by~~ ~~xx~~ his request as per existing Rules. Since such a case had to be decided by the highest authority i.e. Central Board of Excise and Customs New Delhi in view of the extra ordinary circumstances, Respondent No.4 had provisionally allowed him to withdraw his resignation to ensure that the case does not become time barred as imposed vide Rule 26(4) of C.C.S. (Pension) Rules/72 subjecting the same to final approval of the Board and the applicant accepting interalia, the said condition rejoined service on 24.6.96 vide his undertaking dated 24.6.96.

A copy of the letter dated 24.6.96 is enclosed hereto and marked as Annexure R-1.

-3-

The Board, vide their order dated 11.12.1996 from F. No. A-39015/2/96-AD-III-B, after carefully going through the facts of the case refused to allow withdrawal of the resignation tendered by the applicant for his taking part in active politics in the intervening period and, accordingly this office order dated 21.6.96 mentioned above too was withdrawn vide this Office Order dated 20.12.1996 (Copy enclosed and marked as Annexure R-2). It might be pertinent to mention here that subsequent to his re-joining service on 24.6.96, there were complaint against the applicant that he was using his post to conduct political work which led the respondents to transfer him from Karimganj District to Jorhat, Assam. As such, if would be evident that the termination of the applicant from service was in now way improper and also that he rejoined service accepting the condition that permission allowing the withdrawal of his resignation vide this office order dated 21.6.96 will be subject to the approval of the Board, there was no question giving him opportunity of hearing subsequent to the denial by Board vide their order dated 11.12.1996 mentioned above, neither it can be termed as has been done behind the back of the applicant. The administration has acted according to the conditions on which he was allowed to rejoin service only.

-10-

12. That the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with costs and the interim ~~order~~ order dated 26.12.96 may kindly be vacated as the applicant stood terminated with effect from 23.12.1996 but the said order of termination could not be served before 26.12.1996 as the applicant was on leave. The order of termination dated 20.12.1996 was issued by the Assistant Commissioner, Central Excise, Jorhat and sent to the applicant by registered post to his residential address but the same was returned undelivered.

A copy of the termination order dated 20.12.1996 is annexed hereto and marked as Annexure - R-4.

Verification

-11-

VERIFICATION

I, Sri R.K. Sankar, Superintendent (Law) Central Excise, (H.Q. Law Cell), Guwahati, do hereby declare that the statements made in paragraph 1 of the written statement are true to my knowledge, those made in paragraphs 2 to 12 being matters of records are true to my knowledge derived therefrom and those made in the rest are my humble submissions before this Hon'ble Tribunal.

I, sign this verification on this the ..10th.. day of ..December....1997 at Guwahati.

Rathindra Kumar Sankar

10.12.97

Superint*DEONE* (Law)
Central Excise
Guwahati Division

(COPY)

ANNEXURE 'R-1'

102
To
The Assistant Commissioner,
Central Excise, Silchar.

Sir,

With reference to Order dated 21st. June '1996, Shillong communicated vide C.No.II(29)23/ET-II/PL/88/13147-56 A dated 21.6.96 by the Assistant Commissioner (Hqrs), Customs & Central Excise, Shillong. I accept the terms and conditions mentioned in this order regarding the withdrawal of my resignation.

And accepting the same I hereby submit my joining report to you in the forenoon of 24.6.96 and then I will proceed to my place of posting at Karimganj Range.

Dated Silchar Divisional Office the 24th June '96.

Yours faithfully,

Sd/- (Aadesh Kumar Singh)
Inspector,
Customs & Central Excise,

.....

Attested
V.Sankar
10-12-97
Superintendent (Law)
Central Excise
Guwahati Division

Annexure-Q-2

46

Q-2

13

CUSTOMS AND CENTRAL EXCISE : SHILLONG

ORDER

Dated shillong
The 20th Dec. '96

Shri Awdesh Kr. Singh, Inspector who resigned, from service w.e.f. 29.3.96, was allowed to withdraw his resignation vide this office order dated 21.6.96 subject to the approval of Central Board of Excise and Customs, New Delhi and, accordingly, Shri Singh, Inspector, accepting the said condition, rejoined this department as Inspector on 24.6.96.

Now, the Central Board of Excise and Customs, New Delhi vide their order dated 11.12.96 from F. No. A-39015/2/96-AD-III.B after carefully going through the facts of the case have refused to allow withdrawal of the resignation tendered by Shri Singh, Inspector for his taking active part in politics in the intervening period.

In view of the above, this Office Order dated 21.6.96 is hereby withdrawn and the services of Shri Awdesh Kr. Singh, Inspector also stands terminated with immediate effect i.e. from 23.12.96 (A/N)

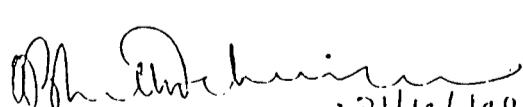
O/c 
(D. BHATTACHARYYA) 21/12/1996

ASSISTANT COMMISSIONER(HQRS.)
CUSTOMS AND CENTRAL EXCISE :: SHILLONG

C.NC.II(29)23/ET.II/PL/88/ 22534-45(A) Dated : 21.12.96

Copy forwarded for information and necessary action to :-

1. Shri O.P. Ahuja, Under Secretary, Central Board of Excise and Customs, New Delhi with reference to his office letter F.NO.A-39015/2/96-AD.III.B dated 11.12.96.
2. The Assistant Commissioner of Central Excise, Jorhat C.Ex. Division. The copy meant for Shri Awdesh Kr. Singh, Inspector is enclosed herewith.
3. Shri Awdesh Kr. Singh, Inspector.
4. The P.A.O./A.C.A.O.(Accts.), Customs and Central Excise, Shillong.
5. Accounts I & II/ET.I & II/Confdl. Br./CIU-cum-VIG. Br. of Hqrs. Office, Shillong.
6. The General Secretary, Group 'C' Executive Officers' Assn., Customs and Central Excise, Shillong.
7. Guard file.

O/c 
(D. BHATTACHARYYA) 21/12/1996
ASSISTANT COMMISSIONER(HQRS.)
CUSTOMS AND CENTRAL EXCISE :: SHILLONG

Attested
K. Manoranjan
10-12-97
Superintendent (Law)
Central Excise
Guwahati Division

10
47
6

CUSTOMS AND CENTRAL EXCISE :: SHILLONG

O R D E R

Dated, Shillong the
21st June, 1996.

Shri Audesh Kumar Singh, Ex-Inspector who had resigned from service w.e.f. 02-03-96 is hereby allowed to withdraw his resignation in pursuance of Rule 26(4) of C.C.S(Pension) Rules, 1972. He may resume duty on or after 24-06-96 but not later than 26-06-96.

Consequent upon the above, the interruption in service shall be deemed to have been condoned but the period of this interruption shall not count as qualifying service as per the provisions of Rule 26(6) of C.C.S(Pension) Rules, 1972.

This order allowing Shri Singh to withdraw his resignation will, however, be subject to the approval of Central Board of Excise & Customs, New Delhi.

If the terms and conditions mentioned in this order is acceptable, Shri Audesh Kumar Singh may join as Inspector in Karimganj Range under Silchar Central Excise Division.

D. Bhattacharyya 21/6/1996
 (D. BHATTACHARYYA)
 ASSISTANT COMMISSIONER (HQRS.),
 CUSTOMS AND CENTRAL EXCISE :: SHILLONG

C. No.II(29)23/ET-II/PL/88/

Blot - 50/71 Dated :- 21/6/96

Copy forwarded for information and necessary action
to :

1. Shri Audesh Kumar Singh, Village & P.O.-NUTAN RAM NAGAR, Via Binnakandi, Lakhiguri, District-Cachar, Assam. While joining, he should submit an undertaking to the effect that the terms and conditions mentioned in this order is acceptable to him.
2. The Assistant Commissioner of Central Excise, Silchar Central Excise division. He should ensure that Shri Singh submits the undertaking as mentioned above at the time of his joining without which he should not be allowed to join.
3. The A.C.A.O./P.A.O., Customs & Central Excise, Shillong.
4. Accounts-II & I /E.T.-I & III/Confidentiala/
C.I.U.-Cum-Vig. Branch of Hqrs. Office, Shillong.
5. Guard File.

D. Bhattacharyya 21/6/1996
 (D. BHATTACHARYYA)
 ASSISTANT COMMISSIONER (HQRS.),
 CUSTOMS AND CENTRAL EXCISE :: SHILLONG

Received from (A)
21/6/96
2A.C.I. (P)

*Accepted
10-12-97
Superintendent (1 aw)
Central Excise
Guwahati Division*

(C O P Y)

ANNEXURE 'R-4'

CENTRAL EXCISE:::JORHAT.

O R D E R

Dated Jorhat 20.12.96

In pursuance of the Assistant Commissioner of (Hqrs), Customs & Central Excise, Shillong's order dated 20.12.96, Shri A. K. Singh, Inspector is hereby terminated from his service with immediate effect i.e. on 23.12.96 (A.N) in terms of Central Board of Excise & Customs, New-Delhi vide order dated 11.12.96 from F.No.A-39015/2/96-AD-IIIB.

Sd/- Illegible,
23.12.96

Assistant Commissioner,
Central Excise::::::::::Jorhat.

C.No.II/ET/P.F./INS/ACG/96/4808-15

Dated 23.12.96.

Copy forwarded for information & necessary action to:-

1. Shri Audesh Kumar Singh, Inspector of Central Excise, Jorhat/Vill Ghorahabanda, P.O. Koroni, Dist. Gazipur (U.P.).
2. The Commissioner (Hqrs), C & C.Ex., Shillong.
3. The Asstt. Commissioner (Hqrs), C & C.Ex., Shillong.
4. The P.A.O., C. & Eentral Excise, Shillong.
5. The A.C.A.O., C & C.Ex., Shillong.
6. The Superintendent (Tech.), C.Ex., Jorhat. Order copy meant for Shri Audesh Kr. Singh, Inspector is enclosed herewith for immediate delivery of the same to Shri Singh, Inspector.
7. Confidential Branch, C.Ex., Divisional Office, Jorhat.
8. Cash Branch, C.Ex. Divisional Office, Jorhat.

Sd/-Illegible,
23.12.96.

Administrative Officer,
Central Excise::::::::::Jorhat.

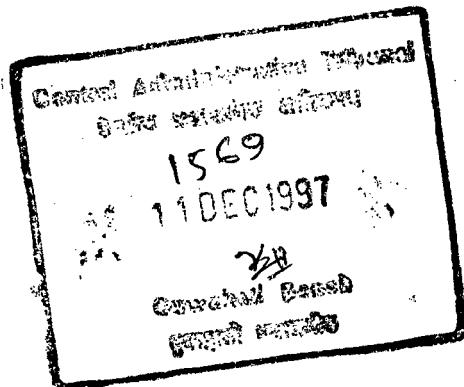
Attested
W. K. Karan
10-12-97
Superintendent (Law)
Central Excise
Guwahati Division

.....

48

Filed by:-
H.K. Choudhury
10/12/97

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH



In the matter of:

O.A. No. 293 of 1996

A.K. Singh

..... Applicant

-Versus-

Union of India & Others

..... Respondents.

Additional written statement for and on behalf of Respondents Nos. 1, 2, 3 & 4 to the additional statement submitted by the applicant.

I, Sri R. K. Sankar, Superintendent (Law) ^{Halawani} Central Excise, Guwahati, do hereby solemnly affirm and say as follows:

1. That I am the Superintendent (Law) ^{Halawani} Central Excise, Guwahati and I am acquainted with the facts and circumstances of the case. I have gone through a copy of the additional statement and have understood the contents thereof. Save and except whatever is specifically admitted in the additional written statement the other contentions and statements made in the additional statement ~~may be deemed to have been denied.~~ I am authorised and competent to file this additional written statement on behalf of the respondents.

2. That para I of the additional statement needs

10/12/97

no reply.

3. That with regards to the statements made in para 2, 3 and 4 of the additional statement the respondents beg to state that unlike in ordinary cases where officers are afforded opportunities of hearing as per laid down principles/ instructions of C.C.S. Rules, Shri Awedesh Kumar Singh had resigned the service with a view to take part in active politics and subsequently when he requested to allow him to withdraw his resignation, it was necessary for the Govt. to decide his request as per the existing Rules. Since such a case had to be decided by the highest authority i.e. the Central Board of Excise and Customs, New Delhi in view of the extra ordinary circumstances, this Department had provisionally allowed him to withdraw his resignation to ensure that the case does not become time barred as imposed vide Rule 26(4) of C.C.S. (Pension) Rules 1972 subjecting the same to final approval of the Board.

Since the Board had finally disallowed the request of withdrawal made by the petitioner it was not necessary to process his termination in the manner that would have been followed had he not resigned. It might be pertinent to mention here that Sri Singh rejoined his service only after accepting the condition that the provisional permission allowing him to withdraw his resignation will be subject to the approval of the Board and since the Board disallowed his request the provisional permission was withdrawn.

4. That with regards to the statements made in para 5 of the additional statement the respondents beg to state that till date no instruction has been issued by the Govt. saying that the Govt. Departments can not work on holidays if the situation so demands. On 21.12.96 some urgent official works were attended to and while dispensing those urgent works, the order dated 21.12.96 too was passed and there is no law which debars the authority from passing the said order on holidays. However as the office of the applicant i.e Jorhat Central Excise Division was closed on that day and resultantly there was no question of the applicant being available in office, the order was given effect on 23.12.96 i.e. Monday, being a working day. Further it is also not clear as to how the said order was ultra vires Rule 26(4) of C.C.S. (Pension) Rules 1972 as mentioned by the applicant, as the Rule does not say that such an order could not be passed on a holiday.

5. That with regards to the statements made in para 6 of the additional statement the respondents beg to state that after issuing the order dated 21.12.96, the order was faxed to his controlling officer i.e. Assistant Commissioner, Jorhat Central Excise Division for further necessary action. However, as Shri Singh, the petitioner, was on leave on 23.12.96, the said order could not be handed over to him on 23.12.96.

VERIFICATION

S1
71

I, Sri R.K. Sarker, Superintendent (Law), Central Excise
Guwahati do hereby declare that the statements made in
paragraph 1 of 2 of the additional written statement
are true to my knowledge, those made in paragraph 3, 4 of 5
being matters of records are true to my knowledge derived
therefrom and those made in the rest are my humble submission
before this Hon'ble Tribunal.

I, sign this verification on this 10th day of
December 1997 at Guwahati.

Rathindra Kumar Sarker
Superintendent (Law) 0.12.97
Central Excise
Guwahati Division