

**Central Administrative Tribunal
Principal Bench**

OA No.1821/2014

New Delhi, this the 19th day of October, 2016

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. V. N. Gaur, Member (A)**

Dr. Ashok Kumar Aswal
Aged about 40 yers,
S/o Shri J. P. Aswal
Deputy Director (Systems)
Group 'A' at Hotel Samrat,
New Delhi

R/o M-80 (2nd Floor)
Guru Harkrishan Nagar,
Paschim Vihar,
New Delhi-87.

.... Applicant.

(By Advocate : Shri H. P. Chakravorty)

Versus

1. Union of India through
The Chairman
Central Board of Excise & Customs
Ministry of Finance,
Government of India,
Department of Revenue,
North Block, New Delhi-01.

2. The Under Secretary to the
Government of India,
Ministry of Finance, Department of Revenue,
Central Board of Excise & Customs,
North Block, New Delhi-01.

.... Respondents.

(By Advocate : None)

: O R D E R (ORAL) :

Justice Permod Kohli, Chairman :

The applicant was served with a Memorandum dated 18.08.2009 for initiating disciplinary proceedings for major penalty under Rule 14 of CCS (CCA) Rules, 1965 which is under challenge in the present OA. Further prayer is for

consideration of applicant to the post of Joint Commissioner, Central Excise and Customs.

2. Earlier, the applicant had filed OA No.131/2014 challenging the same memorandum. This OA was disposed of vide order dated 16.07.2014 with the following directions:-

“2. According to the learned counsel for the applicant, a criminal case was also initiated against the applicant for the same set of facts and the Hon’ble High Court, vide its order dated 11.01.2013 in Writ Petition (C) No.578/2010 filed by the applicant, set aside the sanction issued by the Government vide its order dated 21.10.2009 to prosecute him. The applicant has, therefore, made a representation dated 25.09.2013 to the Disciplinary Authority to drop the proceedings in the disciplinary matter pursued to the aforesaid Memorandum dated 18/24.08.2009. As no decision was taken on the same, he has also send reminders dated 11.10.2013 and 14.10.2013. However, the Disciplinary Authority has not taken any decision on his representations so far. On the other hand, vide Office Order No. 280/2013 dated 31.12.2013, the respondents have promoted many of his juniors.

4. In view of above position, we dispose of this O.A. at the admission stage itself without going into its merits and direct the respondents to take a conscious decision on the aforesaid representations of the applicant whether they would like to proceed with the enquiry proceedings against him or to drop the same. They shall also convey their decision to the applicant within four weeks from the date of receipt of a copy of this order. However, the applicant is at liberty to approach this Tribunal again through appropriate original proceedings, if he is still aggrieved by the orders passed by the respondents. There shall be no order as to costs.”

The representation of the applicant has been rejected vide order dated 27.02.2014 pursuant to the aforementioned directions of the Tribunal. Thereafter, the respondents seem to have continued with the disciplinary proceedings and after appointment of Inquiry Officer, inquiry has been completed.

3. In the counter affidavit filed by the respondents at page 14 under the caption "Brief Facts of the case" the respondents have made the following averments:-

"In the meantime, the inquiry officer in the departmental proceedings has on 8.6.2015 submitted his report to the disciplinary authority. The disciplinary authority is yet to form a view on the findings of the IO."

From the above averments, it is apparent that the Inquiring Authority has already submitted its report to the Disciplinary Authority. However, the Disciplinary Authority has not taken any decision even after lapse of more than one year.

4. In view of the counter filed on behalf of the respondents, this OA is disposed of with a direction to the Disciplinary Authority to take decision on the Inquiry Report submitted by the Inquiring Authority in accordance with law within a period of two months from the date of receipt of copy of this order, and communicate the same to the applicant. In respect to the other relief of the applicant for promotion to the post of Joint Commissioner, depending upon the outcome of the disciplinary proceeding, he shall be entitled to seek remedial measures in accordance with law if the relief is not granted to him.

(V. N. Gaur)
Member (A)

(Justice Permod Kohli)
Chairman

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