

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH



No. MA 350/00402/2014  
(OA 828 of 2013)

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member  
Hon'ble Mr. Uday Kumar Varma, Administrative Member

RUPAK CHAUDHURY

VS

UNION OF INDIA & ORS.

For the applicant : Mr.K.Sarkar, counsel  
For the respondents : Mr.B.P.Manna, counsel

Order on : 20.9.16 .

O R D E R

Mr. Uday Kumar Varma, A.M.

OA 828/13 was decided on 12.12.13 with the following directions :

*"After considering the case and seeing the minutes of the proceedings/daily sheet dated 29.11.12, we are of the opinion that the case is premature and does not require adjudication at this stage. The enquiry officer is well aware of the demand of the charged officer and made suitable observations in the minutes also. However, in the interest of justice and fair play and also to expedite the inquiry process, we direct the respondent Nos. 4 and 5 to see that the charge officer gets the reasonable opportunity to defend his case as per relevant rules and guidelines. The applicant is also directed to give his co-operation in the expeditious completion of the DA proceeding as per rules.*

*With this direction, the OA is disposed of. No order as to costs."*

2. An MA has been filed stating that these directions of the Tribunal have not been complied with by the respondents.

3. It seems from the record particularly from the written statement of the respondents that the respondents have already partially complied with the order of the Tribunal. The Presenting Officer has requested the applicant to inspect the original copies of relied upon documents at the CFIC Cell of the Commissionerate of Customs (Prev.) Kolkata. The Assistant Commissioner of Customs by his letter dated 13.2.15 has informed that the applicant inspected the documents available on 9.1.15. Upon inspection the applicant furnished a list of documents for the purpose of inspection. As some of the documents were

seized by the CBI, the department requested the CBI to arrange for inspection of the same. The CBI informed that the applicant may inspect the original documents at their office. The department accordingly informed the Presenting Officer. The applicant sought for some investigation reports which were not among the relied upon documents. However, the department wrote to CBI seeking such records. In response the CBI informed that the only investigation report prepared is the charge sheet and advised to approach the concerned Court in case the department requires the charge sheet. The respondent authorities therefore have submitted that the matter is under consideration and have tendered unqualified apology for such unintentional delay.

3. At the time of argument Id. Counsel for the applicant in the MA vehemently argued that DOPT circular dated 24.2.11 provides that original documents must be provided to the charged officer in order to defend his case.

4. We have carefully gone through the circular No. F.No.C-14010/3/2011-Ad.V dated 24.2.11 which infact deals with the issue of government department relying on Xerox copies in the departmental enquiry and has instructed that only Xerox copies should not be relied upon in a departmental enquiry. In fact it unequivocally states,

*"It is a settled procedure that where a document is required to be relied upon in a departmental inquiry under CCS (CCA) Rules, 1965, such document should be either the original document or an authenticated copy thereof."*

It also provides that the original copies should also be kept readily available so that the charged officer if need be, may inspect the same. It also deals with the issue of original documents that cannot be located. In that case it provides that if the original documents that are relied upon in the enquiry are not available, the disciplinary authority should not proceed to conduct the enquiry till all out efforts are made to locate the original documents.

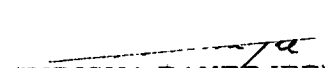
5. The facts as brought before us are that some documents whose original copies have not been exhibited are the authenticated copies and to that extent their validity cannot be challenged. There are certain other sets of documents which are in a Court as informed by the CBI. In case of such documents efforts

have to be made by the disciplinary authority to procure those documents and enable the charged officer to inspect. It is clear from the written statement of the respondents that they are making efforts in this regard and need some more time to do the same. There is another set of documents which the applicant is seeking to inspect in original but which are not being relied upon in the enquiry. In such a situation it is not mandatory for the Disciplinary Authority to make the original copies of these documents available to the applicant.

6. We note from the written statement that the applicant has already done two inspections of records including original records relied upon in the enquiry - one on 9.1.15 and another on 18.6.15.

7. From the facts and circumstances as stated above we cannot conclude that the respondents have been deliberately amiss in carrying out the directions of this Tribunal contained in the order dated 12.12.13 passed in OA 838/13. We thus do not find any merit in this MA and the MA is accordingly rejected. There shall be no order as to costs.

  
(UDAY KUMAR VARMA)  
MEMBER (A)

  
(BIDISHA BANERJEE)  
MEMBER (J)

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