

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.186/2018

Date of Decision: 09.04.2018.

CORAM: HON'BLE SHRI ARVIND J. ROHEE, MEMBER (J)
HON'BLE SHRI R. VIJAYKUMAR, MEMBER (A)

Bhimrao Aba Vhavale
 Retired Appraising Officer
 of Customs.

R/at Post – Sarud, Taluka-
 Shahuwadi, Dist. Kolhapur,
 Maharashtra – 416 214.

... *Applicant*

(By Advocate Shri H.G. Dharmadhikari)

Versus

1. Union of India,
 Through the Secretary,
 Ministry of Finance, Dept.
 of Revenue, North Block,
 New Delhi 110 001.
2. Principal Commissioner of
 Customs (Gen), New Customs
 House, Ballard Estate,
 Mumbai 400 001.
3. The Assistant Commissioner of
 Customs (Vig),
 New Custom House,
 Ballard Estate, Mumbai 400 001.
4. The Additional Commissioner of
 Customs,
 Vigilance Section, Mumbai – I,
 New Custom House, Ballard Estate,
 Mumbai 400 001.
5. The Chief Accounts Officer,
 Accounts (M),
 New Custom House,
 Ballard Estate, Mumbai 400 001. ... *Respondents*

ORDER (Oral)

Per : Shri A.J. Rohee, Member (J)

Today when the matter is called out for Admission, heard Shri H.G. Dharmadhikari, learned Advocate for the Applicant. We have carefully perused the case record.

2. The Applicant retired as Appraiser while working with the Respondents. In this OA, he seeks the following reliefs:

“8.a) That this Hon'ble Tribunal be pleased to call for the records and proceeding of the case which led to issuance of impunged charge sheet dated 21.04.2005 and after going through the same be pleased to quash the entire proceedings on the ground of belated initiation of proceedings.

8.b) That this Hon'ble Tribunal be pleased to quash and set aside letter dated 22.02.2017 enclosing the Inquiry Report dated 02.04.2013 which is conducted ex-parte in an arbitrary manner despite the knowledge that applicant is suffering from mental illness.

8.c) The order of initiation of an inquiry dated 24.09.2010 under Rule 9 of Central Civil Services (Pension) Rules, 1972 may please be declared as not maintainable being barred by sub rule 2 (b)(ii) of Rule 9 of Central Civil Services (Pension) Rules, 1972 on the ground that the entire proceedings initiated beyond 4 years from the date of alleged misconduct.

8.d) The Hon'ble Tribunal may please grant interim relief of provisional pension considering the facts and circumstances of the present case of the applicant.

8.e) Cost of this original application be provided for.

8.f) Any other and further order as this Hon'ble Tribunal may deem fit, proper and necessary in the circumstances of the case."

3. It is submitted by learned Advocate for the applicant that inquiry proceeded *ex parte* in absence of the applicant, since he could not attend for the reason of his psychological disorder. However, the Inquiry Officer completed the inquiry and submitted the report to the Disciplinary Authority on 27.02.2017. It is stated that its copy is served on the applicant. However, he has not yet filed representation/reply to it. It is also stated that the Disciplinary Authority has not passed any final order in the proceeding since there is no communication to this effect from the other end. At present, there is no adverse order as such which can be tested by exercising the power of judicial review vested in this Tribunal.

4. In the peculiar facts of the present case, the OA stands disposed of however with liberty to the applicant to submit the representation against the Inquiry Officer's report within two weeks from today.

5. On submission of such representation by

the applicant, the Disciplinary Authority is directed to consider it and pass appropriate orders on it in accordance with law, within a further period of eight weeks, in case no final order has been passed by the Disciplinary Authority in the matter.

6. It is needless to say that in case any final order is already passed by the Disciplinary Authority in absence of the representation submitted by the applicant to the Inquiry Officer's report, this order will be non-est.

7. However, the applicant will be at liberty to take appropriate steps against the said order.

8. The OA stands disposed of with the aforesaid directions at the admission stage, without issuing notice to the respondents and without making any comments on merits of the claim.

9. Registry is directed to forward copy of this order to both the parties at the earliest for taking appropriate steps in the matter.

10. *Dasti.*

(R. Vijaykumar)
Member (A)

(Arvind J. Rohee)
Member(J)