

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

OA/21/703/2018

Dated: 12/04/2019

Between

K. Raja Rao,
S/o. K. Isac, aged about 57 years,
Occ: Supdt. Customs, Central Tax (CGST),
R/o. D.No.26-39-73, 7th Line,
A.T. Agraharam,
Guntur ó 522 004.

... Applicant

AND

1. The Govt. of India, Ministry of Finance,
Dept. of Revenue, North Block,
New Delhi rep. by its
Deputy Secretary/ Under Secretary.
2. Chief Commissioner of Customs,
Central Excise & Service Tax,
Vizag Zone, Central Excise Building,
Port Area, Visakhapatnam Zone.
3. Commissioner of Customs and
Central Excise,
Guntur Commissionerate,
C.R. Buildings, Kannavari Thota,
Guntur.
4. Principal Commissioner of Central Tax/
Cadre Controlling authority,
Hyderabad GST Commissionerate,
Basheerbagh, Hyderabad.

... Respondents

Counsel for the Applicant : Mr. N. Vijay
Counsel for the Respondents : Mr. R.V. Mallikarjuna Rao,
Sr. PC to CG

CORAM :

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mrs. Naini Jayaseelan, Admn. Member

ORAL ORDER

(Per Honøble Mr. Justice L. Narasimha Reddy, Chairman)

2. This is the 3rd round of litigation in relation to the disciplinary proceedings initiated against the applicant.

3. The applicant was appointed as Inspector in Central Excise in the year 1985. He was promoted to the post of Superintendent in the year 1994. Disciplinary proceedings were initiated against him by issuing charge memo dated 07.11.2001, alleging certain acts of indiscipline and misconduct. The applicant submitted his explanation and not satisfied with that, the Disciplinary Authority appointed an Inquiry Officer. A report was submitted by the Inquiry Officer on 31.03.2004, holding that charges are proved. Taking the same into account, the Disciplinary Authority passed an order dated 16.05.2005 removing the applicant from service.

4. Aggrieved by the order of removal, the applicant filed O.A. No.900/2007 before this Tribunal. The O.A. was allowed, setting aside the order of punishment and remanding the matter to the Disciplinary Authority. Not satisfied with the nature of disposal given by the Tribunal, the applicant as well as the department filed separate Writ Petitions; No.952/2009 & 20766/2010 before the High Court of Andhra Pradesh. Since no interim orders were passed in the Writ Petitions, the Disciplinary Authority proceeded to re-consider the matter after remand and passed an order dated 21.3.2011 compulsorily retiring the applicant from service, subject however to the outcome of the Writ Petitions. The Writ Petitions were disposed of on

6.6.2013, leaving it open to the applicant to challenge the order of compulsory retirement.

5. The applicant filed O.A. No.840/2013 feeling aggrieved by the order of compulsory retirement. The OA was allowed on 29.11.2013, setting aside the order of compulsory retirement and the respondents were directed to reinstate the applicant into service. The applicant felt aggrieved on account of denial of relief as regards the period during which he was out of service. The department felt aggrieved by the direction of the Tribunal for reinstatement. Both of them filed Writ Petitions No.16003/2014 & 22978/2014 respectively. Through a common order dated 14.08.2014, the High Court had set aside the order passed by the Tribunal and directed the Disciplinary Authority to re-consider the matter in the context of imposition of punishment. The finding on the charges was kept intact.

6. After the second round of litigation, the Disciplinary Authority passed an order dated 18.03.2015, imposing the punishment of reduction of pay scale to the minimum, to be in force for a period of 5 years with cumulative effect. In the departmental appeal preferred by the applicant, the punishment was reduced to the one of reduction of pay scale to the minimum for a period of two years with cumulative effect through order dated 24.6.2016. This O.A. is filed challenging the order dated 18.03.2015 as modified by the Appellate Authority through order dated 24.06.2016. The applicant contends that the charges framed against him were totally motivated and the findings therein were recorded without there being any valid evidence. Other grounds are also pleaded.

7. The respondents filed counter affidavit opposing the O.A. They stated that the charges framed against the applicant are serious in nature and once they are held proved by the Inquiry Officer, there is no other go except to impose the punishment. It is stated that though initially the punishment of removal was imposed, least possible punishment was imposed on account of the indulgence shown by the Tribunal and the High Court, and the Appellate Authority, and that no interference is warranted.

8. We heard Sri N. Vijay, learned counsel appearing for the applicant and Sri R. Pavan Maitreya representing Sri R.V. Mallikarjuna Rao, learned Senior Panel Counsel for the respondents.

9. The charge framed against the applicant reads as under:

öSri K. Raja Rao while functioning as Superintendent of Customs Central Excise, Inland Container Depot (ICD), Guntur committed gross misconduct and failed to maintain absolute integrity and acted in a manner unbecoming of a Government Servant in as much as he, on 12.11.99, demanded an illegal gratification of Rs.10 lakhs for Dr. S.N. Busi the then Commissioner of Customs and Central Excise, Guntur and Rs.1 Lakh for himself from Shri Irfan Sheriff, Partner, M/s. Sheriff & Sons, Customs House Clearing Agents, Guntur/ Chennai for renewal of the their Customs House Licence (CHA). Thereby he contravened Rule 3(1)(i) & (iii) of CCS (Conduct) Rules, 1964.ö

The statement of imputation was also appended in the form of Annex.II together with other supporting material. On denial of charge by the applicant, a departmental inquiry was conducted and the Inquiry Officer held the charge as proved. As mentioned in the preceding paragraphs, the matter has undergone various stages. Initially, the punishment of removal

from service was imposed and on remand of the matter, after exhausting the remedy before the High Court, the one of compulsory retirement was imposed. That again was interfered with by the Tribunal, but the High Court had set aside the order passed by the Tribunal and remanded the matter to the Disciplinary Authority only in the context of imposition of punishment.

10. For all practical purposes, the charge levelled against the applicant stood proved and finding of the Inquiry Officer became final with the seal of approval being put by the Tribunal as well as the High Court. Now, the question remains the one, the quantum or proportionality of the punishment. Though the Disciplinary Authority imposed the punishment in the 3rd round in the form of reduction of pay scale to the minimum to be in force for 5 years with cumulative effect, the Appellate Authority has shown indulgence and reduced the period of punishment to 2 years.

11. We are of the view that if one takes into account, the gravity of the charge framed and proved against the applicant, the punishment imposed on him, by any standard does not seem to be disproportionate. We are not inclined to interfere with the orders impugned in the O.A. The O.A. is dismissed. There shall be no order as to costs.

(NAINI JAYASEELAN)
MEMBER (ADMN.)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

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