

Reserved**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH**
JABALPUR**Original Application No.200/00325/2017****Jabalpur, this Wednesday, the 8th day of May, 2019****HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER**
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

1. Shri P.E. Das, s/o Shri Sukho Das, aged about 60 yrs.,
Superintendent of Central Excise, O/o. The Commissioner,
Customs & Central Excise, Dhamtari Road, Tikrapara,
Raipur (C.G.), R/o K-2, Shatabdi Nagar, P.O: Ravigram,
Telibandha, Raipur – 492006 (C.G.).

2. Shri P.R. Verma, s/o Late Shri Roopchand Verma,
Aged about 51 yrs., Inspector of Central Excise,
O/o. The Commissioner, Customs & Central Excise,
Dhamtari Road, Tikrapara, Raipur (C.G.),
R/o H.No. S-73, Sector – II, Avanti Vihar,
Raipur – 492006 (C.G.).

3. Shri R.P. Dwivedi, s/o Shri R.N. Dwivedi,
Aged about 57 yrs., Inspector of Central Excise,
O/o The Commissioner, Customs & Central Excise,
Dhamtari Road, Tikrapara, Raipur (C.G.), R/o 7-D,
Avenue-B, Sector-2, Bhilai 490001 (C.G.)

(By Advocate – Shri Ravi Shrivastava)

-Applicants**V e r s u s**

1. The Chief Commissioner, Central Excise,
Customs and Service Tax, 48, Administrative Area,
Area Hills, Hoshangabad Road, Bhopal M.P. – 462011.

2. The Commissioner, Central Excise,
Central Revenue Building, Damtari Road,
Tikrapara, Raipur (C.G.) Pin 492001.

3. The Chairman, Central Board of Excise & Customs,
North Block, New Delhi. Pin – 110001.

4. Union of India, through its Secretary,
Ministry of Finance, North Block,
New Delhi 110001

-Respondents

(By Advocate – Shri Himanshu Shrivastava)

(Date of reserving order: 16.11.2018)

ORDER

By Navin Tandon, AM.

By filing this Original Application the applicants have sought for the following reliefs:-

“quash and set aside the Order-in-Appeal No. 1/BPL/2017 Dated 07.03.2017/27.03.2017 passed by Respondent No.1 The Chief Commissioner Central Excise, Customs and Service Tax, 48, Administrative Area, Arera Hills, Hoshangabad Road, Bhopal M.P., at Annexure-A/1, so also Order-In-Original C.No. II(08)06-CON/ G.P. ISPAT/2012 /PT/4065 dated 14.01.2016 passed by Respondent No.2 The Commissioner, Customs & Central Excise, Raipur (C.G.) [Disciplinary Authority], at Annexure-A/2 and exonerate the applicants from the charges alleged in the Memorandum dated 12.06.2013 in the interest of law and justice and direct the respondents to open the sealed envelope of the applicants in relation to their promotion and if otherwise found suitable they should be directed to promote the applicants with all consequential benefits.”

2. The brief admitted facts of the case are that a common charge-sheet was issued to the applicants under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 on 12.06.2013 (Annexure A-18).

3. After holding enquiry, the enquiry officer came to the conclusion that there was no corroborative evidence showing that

the applicants had acted in negligence while conducting the stock verification on 05/06.06.2012 and that there are no charges of dishonest or corrupt motive on the part of the applicants. The enquiry officer found that none of the charges leveled against the applicants stands proved.

4. The disciplinary authority, though agreed with the findings of the enquiry officer to the extent that there was no allegation of dishonest or corrupt motive on the part of the applicants, observed that the applicants were not diligent enough in undertaking the specific task of verification of physical stock of TMT Bars assigned to them and have thus erred in discharging the task assigned to them diligently and effectively and in partial disagreement with the findings of the enquiry officer, proposed to censure all the applicants with the direction to be more careful in performing their official duties. However, the Chief Vigilance Officer, after observing that since the applicants had failed to conduct physical stock verification of the goods properly and which would have led to a revenue loss of Rs.3.86 crores, advised imposition of major penalty to the applicants.

5. Accordingly, after examination, the disciplinary authority imposed the penalty of reduction of pay in the pay of the applicants for a period of one year without cumulative effect.

6. Against the said order, the applicants had preferred an appeal. The appellate authority vide his order dated 07.03.2017 (Annexure A-1) quashed and set aside the order passed by the disciplinary authority and remanded the matter to the disciplinary authority for passing a fresh order after examining the points raised in the order and after communicating the reasons of disagreement to the applicants.

7. Now, by filing the present Original Application, the applicants have challenged the above order passed by the appellate authority, as well as the order passed by the disciplinary authority dated 14.01.2016 and direction to the respondents to open the sealed envelope of the applicants in relation to their promotion and if otherwise found suitable they should be directed to promote the applicants with all consequential benefits.

8. Vide an interim order passed in this Original Application, the impugned order dated 07/27.03.2017 passed by the respondent No.1 was stayed.

9. Heard the learned counsel of both sides and carefully perused the pleadings of the respective parties and the documents annexed therewith.

10. We find that since the order passed by the disciplinary authority has already been quashed and set aside by the appellate authority and the matter was remitted back to the disciplinary authority, we are of the considered opinion that since the matter is pending for consideration before the disciplinary authority and most of the grounds raised by the applicants against the orders passed by the disciplinary authority have already been considered by the appellate authority, who had directed the disciplinary authority to consider all such submissions of the applicant while passing the order we are of the considered opinion that it would not be justifiable for us to pass any such order in the matter. Since the matter is still pending for consideration before the disciplinary authority, the applicants may submit their further submissions, if any, which have been raised by them in this Original Application, within a period of 30 days from the date of communication of this order. The disciplinary authority is also directed to consider all those submissions, before passing any order against the applicants.

11. In the result, the Original Application is disposed of with above directions. No costs.

(Ramesh Singh Thakur)
Judicial Member

rkv

(Navin Tandon)
Administrative Member