

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00070/2018

DATED THIS THE 22nd DAY OF JULY, 2019

HON'BLE DR. K.B. SURESH, MEMBER (J)

HON'BLE SHRI CV.SANKAR MEMBER (A)

Smt.Baby S.Shirekar,
D/o Subash Chandra,
Aged about 38 years,
working as Executive Assistant,
O/O Central Excise & GST
Commissionerate,
Mysore Rural Division,
S-I, S-II, Vinay Marg,
Siddharth Nagar,
Mysore 570011.

...Applicant

(By Shri Ranganatha S.Jois..... Advocate)

Vs.

1.The Principal Chief Commissioner
of Central Excise,
Customs and Service Tax,
Office of the Principal
Chief Commissioner
of Central Tax,CR Building,
Queens Road,Bangalore-560 001.

2..The Commissioner of Central Excise,
Customs and Service Tax,
Mysore Zone, S-I, S-II,
Vinay Marg,Siddharth Nagar,

Mysore 570011.

3.The Union of India
Rep by its Secretary
Ministry of Central Excise
Sansad Marg,
New Delhi-110 011.

....Respondents

(By Shri K.Dilip Kumar, ACGSC)

ORDER (ORAL)

HON'BLE DR K.B.SURESH, MEMBER (J)

1. The compatibility of civil proceedings and criminal proceedings are the basic issues in this matter. It appears that applicant had specifically requested for cross examination of certain witnesses, including Shri Puttaswamy, Superintendent and Shri H.Veerappa who was the custodian of cheque book, as the matter relates to issue of cheque which ought to have been looked into by the applicant. It is also pertinent to note that on this matter a criminal case was pending. But it is the applicant's own mistake that she did not come to the court and request that till the completion of criminal process, the civil process may be kept pending. Therefore, she cannot turn around at this point and say that she was denied an opportunity.

2. But she says that she has not been allowed to examine the said witnesses in the cross-examination of Rekha and Shri Usha Haridas as they have disowned that the applicant had accompanied Smt. Doddamma to the Bank and there is also no clear evidence to show that the applicant is in any way responsible for the said Doddamma receiving the cheque. She would also say that because of the failure of Shri Puttaswamy, the Superintendent to supervise the lock and keys, the incidence has happened and so far as the responsibility of the loss of cheque is concerned it is Shri H.Veeranna, the Inspector who was allotted the work of Custody and EOU Refund.

She would say that there is no duty and responsibility of her to deal with the said cheque and therefore, putting the blame on her saying that she has stolen the cheque is totally false and it has to be proved beyond hilt in a manner befitting a fair proceeding. Therefore, applicant is not the custodian of the cheque. Therefore, we had gone through the evidence. She says “ *Mr.N.Vijayakumar followed me on his bike and I left my car nearby quarter. Mr.N.Vijayakumar ordered the Security Guard to shut the gate and to lock. I was asked to sit in the office of the residents of department quarters. Doddamma was also*

there. Mr.H Veerappa brought ASI Rangaswamy. The ASI checked my bag and found nothing pertaining to the stolen cheque. The police searched my residence on 4.12.2010 Saturday and did not find any documents pertaining to the stolen cheque. Smt Prema, Sepoy was asked to watch me. Mr.H Veerappa also brought a boy of Provisional Stores along with the police. Mr.H Veerappa was helping directing the police about investigation the whole day. The police Mr.N.Vijayakumar and Niranjanmurthy and others were in the police station. As per the direction of Mr.H Veerappa the lady police took my mobile to her custody. The police allowed me to go my residence on 4.12.2010 Saturday at about 6.00 P.M in car of Mr.CB.Nagaraj, STA along with H.Veerappa and N.Vijayakumar, Smt Prema, Sepoy was standing near the gate of the quarters. She was also sent to my residence to watch me on 4.12.2010 Saturday and 5.12.2010 Sunday throughout night and ordered her not to allow me to move without producing search warrant issued by Head of the Department. This shows that they have used this opportunity to put the documents of stolen cheque in my residence which was seized by police, on 6.12.2010 Monday.”

3. We find that there is no effective reply by the respondents on this matter. It is clear that she has been denied fair opportunity of contesting this issue and if 10% of what she says is correct she had been made a victim. Therefore, on the ground of absolute lack of evidence to go against her, we find that the enquiry was a false and a motivated one and may be intended to shield some one else. The whole process is quashed. Applicant will be granted all the benefits which would have been hers as if nothing had happened. OA allowed. No order as to costs.

(CV.SANKAR)
MEMBER (A)

(DR. K.B. SURESH)
MEMBER (J)

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Annexures referred to by the applicant in OA.No.70/2018

Annexure A1: Copy of Article of charges Dtd. 21.12.2012

Annexure A2: Copy of reply to charge memo dtd. 28.1.2014

Annexure A3: Copy of the rejected Dtd.1.12.2015

Annexure A4: Copy of enquiry report Dtd.4.8.2016

Annexure A5: Copy of reply to enquiry report Dtd. 17.10.2016

Annexure A6: Copy of representation dtd. 7.11.2016

Annexure A7: Copy of impugned order dated 28.2.2018

Annexure A8: Copy of memorandum of appeal of applicant dtd. 5.4.2017

Annexure A9: Copy of the dismissed appeal of applicant dtd. 28.12.2017

Annexure referred in rejoinder

Annexure A10: Copy of Rules of CCS(CCA) 1965

Annexure A11: Copy of Rule of CCS(Conduct)

Annexure A12: Copy of Central Secretariat manual
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