

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Friday 3rd day of May Two Thousand And Nineteen

PRESENT:

THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)
THE HON'BLE MR. P. MADHAVAN, MEMBER (J)

MA 310/273/2019

In &

MA 310/274/2019

In &

OA 310/210/2019

K. Thenmozhi, Aged about 51 years,
Working as an Examiner in the office of
Chief Commissioner of Customs,
Ministry of Finance, Department of Revenue,
Custom House, No.60, Rajaji Salai,
Chennai- 600 001.

...Petitioner/Applicant

(By Advocate: Mr.P. Saravanan)

Versus

1. The Principal Chief Commissioner of Customs,
Ministry of Finance, Department of Revenue,
Commissionerate-VIII, Custom House, No.60,
Rajaji Salai,
Chennai- 600 001;
2. Commissioner of Custom (Import),
Ministry of Finance, Department of Revenue,
Commissionerate-VIII,
Custom House, No.60, Rajaji Salai,
Chennai- 600 001;
3. Deputy Commissioner of Customs (Estt),
Ministry of Finance, Department of Revenue,
Commissionerate-VIII,
Custom House, No.60, Rajaji Salai,
Chennai- 600 001.

...Respondents/Respondents

(By Advocate:)

ASLB.

ORAL ORDER

(Pronounced by Hon'ble Mr. R. Ramanujam, Member (A))

Heard. M.A.273/2019 has been filed to condone the delay of 20 days in filing restoration petition i.e. M.A. 274/2019 in O.A. 210/2019. Del is condoned. M.A. 273/2019 is allowed.

2. M.A. 274/2019 has been filed to set aside the order in OA 210/2019 dated 06.03.2019 passed by the Tribunal and consequently restore and take up the above OA for hearing on merits. MA 274/2019 is allowed and OA is restored to its file and position.

3. This OA has been filed by the applicant seeking the following relief:-

"to quash the order in Appeal No. 19/2018 (CCO-VIG) dated 17/4/2018 passed by the 1st respondent in so far as imposition of penalty of "CENSURE" on the applicants concerned and further direct the 2nd respondent to revise the date of regularization of the applicant in the Inspector (Examiner) cadre from 01.04.2017 to 15.10.2014 and thereby grant to the applicant all the consequential reliefs thereof and pass such further or other order as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice."

4. The applicant is aggrieved by the order passed in appeal by the competent authority against the order of the disciplinary authority imposing a penalty on the applicant following departmental proceedings. It is submitted that the disciplinary authority and the appellate authority failed to consider that the applicant had been acquitted in the criminal case and accordingly nothing survived in the charges framed against her. However,

although the appellate authority recorded a finding that the disciplinary authority's findings were not fully evidenced by the facts and circumstances on record and this necessitated a modification of the final order, instead of setting aside the order, he chose to impose the penalty of 'CENSURE' UNDER Rule 11(i) of CCS(CCA) Rules, 1965 to the appellant.

5. Learned counsel for the applicant would argue that once it was found that the disciplinary authority findings were not fully evidenced by facts, the question of reducing the penalty would not arise and the only option before the appellate authority was to set aside the order of the disciplinary authority.

6. On perusal, it is seen that the revision authority has clearly recorded a finding that he did not find any violation of the procedures laid down in the CCS(CCA) Rules in the conduct of inquiry. The penalty imposed by the disciplinary authority was found to be excessive and hence a modification was called for. Accordingly the penalty of reduction of pay by two stages for a period of six months with effect from 1.6.2006 along with a direction that the applicant would not earn any increment of pay during the period of reduction and that the reduction would not adversely affect applicant's pension was modified and reduced to one of 'Censure'.

7. To a pointed out query from the Bench, if the applicant had filed the annual property returns and it is his contention that the charge under Article of 2 of the Charge Memo was false, learned counsel for the applicant would admit that the applicant had not filed the annual property return. However,

he seeks to explain the circumstances of non-submission in terms of the criminal case that was pending against her and the orders of the court.

8. We have considered the submission. The applicant has been imposed with a penalty of 'censure' only for non-submission of annual property return. This Tribunal is not an appellate authority to consider whether such penalty was fair or otherwise. If the applicant had not filed annual property return as required under the rules, had been found guilty accordingly and the mildest punishment in the form of Censure is imposed, it is not for the Tribunal to comment on the decision of the competent authority. Suffice it to say that the penalty imposed is not disproportionate to the gravity of the misconduct much less one that shocks the conscience of the Tribunal. We cannot, therefore, interfere in the matter.

9. The OA is misconceived and is accordingly dismissed. No costs.