

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Monday 27th day of July Two Thousand And Eighteen

PRESENT:

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

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

O.A./310/13/2014

V.S. Sundararajan,

Deputy Commissioner of Customs (Retd.)

A-5, Alapana Flats,

Old No.2/New No.3, Kesavaperumal South Street,

Mylapore,

Chennai- 600 004..

.....Applicant

(By Advocate : Mr. M. Ravi)

VS.

Union of India Rep. by the

Under Secretary to Government of India,

Ad-V Section, O/o. the Chief Vigilance Officer,

Central Board of Excise & Customs,

Department of Revenue,

Ministry of Finance,

6th Floor, Hudco Vishala Building,

Bhikaji Cama Place,

New Delhi- 110 065.

... ..Respondents

(By Advocate: Mr. D. Raghupathi)

Asvs

ORAL ORDER

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

Heard both sides. The O.A has been filed by the applicant seeking the following reliefs:-

"to call for the records on the file of the proceedings of the first Respondent in proceedings No. Sanction Order F.No.C-14011/40/2013-AD.V dated 29.10.2013 and his consequential proceedings in Memorandum No. 25/2013 F.No.C-14011/40/2013-AD.V dated 29.10.2013 and quash the same."

2. It is submitted that the applicant was issued with a charge memo dated 29.10.2013 with regard to alleged lapses in the verification of departmental records in respect of adjudication proceedings in a certain matter. It was alleged that the applicant recommended disposal of certain goods by a note dated 28.10.2009 in F.No.Misc.161/2008, Courier Cell, pending adjudication proceedings. He failed to verify with departmental records whether there was any pending investigation/ adjudication/ Court proceedings in respect of the subject consignment in terms of the relevant Board Circulars dated 11.2.1998, 28.1.2004 and 1.12.2005. The Board Circulars cast a responsibility on the officers who scrutinize the sale list furnished by the custodians to verify the departmental records and also take all steps to withdraw the consignments which are pending investigation/adjudication/Court proceedings. However, the applicant who was then Dy. Commissioner of Customs failed to carry out such verification of departmental records and withdraw the subject consignment which was



pending adjudication before recommending disposal of the goods by note dated 28.10.2009 addressed AC of Customs (Disposal Wing), ACC, Chennai. He also failed to notice that the Custodian and the Authorized Couriers failed to issue notice to importer Under Section 48 of the Customs Act 1962. The alleged act of omission/commission on the part of the applicant resulted in revenue loss of Rs. 1,48,586/- besides fine and penalty that could have been imposed at the discretionary of the adjudicating authority.

3. Learned counsel for the applicant would submit that in terms of Rule 9(2) (b) of CCS (Pension) Rules, any departmental proceedings, if not instituted while the Government servant in service, whether before his retirement, or during his reemployment - shall not be in respect of any event which took place more than four years before such institution. He would accordingly argue that the note allegedly submitted by the applicant dated 28.10.2009 related to an event which was more than four years before the date of issue of charge memo dated 29.10.2013 and, accordingly, the charge memo was liable to be quashed and set aside.

4. Learned counsel for the respondents would, however, submit that the misconduct of the applicant had resulted in a significant revenue loss to the department, details of which were provided in Annexure-I & II of the charges-memo. As regards the time limit for institution of inquiry, it is submitted that the charge memo was issued on 29.10.2013 with respect to a noting made by the applicant dated 28.10.2009 which was exactly four years from the date of institution. Further, the noting of the applicant was not a

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single event and he continued to mislead the authorities with such note with respect to the subject matter till he demitted the charge on 06.01.2010. Attention is drawn to Annexure-III of the charge Memo containing a list of documents by which the articles of charges framed against the applicant were proposed to be sustained. The statement dated 21.2.2011 made by the applicant is shown as one of the documents to support the charges contained in the charge memo and, therefore, the four year time limit had not been breached, it is contended.

5. We have considered the submissions. It is not in dispute that the note recorded by the applicant with regard to the subject matter which is alleged to have resulted in a financial loss to the respondents was dated 28.10.2009. It is also alleged that the applicant continued on the post of Deputy Commissioner thereafter and took no remedial measures to prevent/recover the loss. Accordingly, we are not inclined to hold that this inquiry is beyond the powers of the President in terms of Rule 9 of the CCS(Pension) Rules. As far as the veracity of the charges ^{is} ~~are~~ concerned, the applicant would have ample opportunity to defend his case fully before inquiry officer and, therefore, we see no scope for interference in the matter at this stage.

6. O.A. is dismissed. No costs.