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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1958/2003

New Delhi this the 5th day of May, 2004.

Hon'ble Sh. V.K. Majotra, Vice-Chairman(A)
Hon'ble Sh. Shanker Raju, Member(J)

Sh. H.C. Kapoor,
214, Gobind Apartments,
Vasundhara Enclave,
Delhi. Applicant

(through A.V.S. Jain, Advocate)

Versus

1. Union of India through
its Secretary,
M/o Finance, (Deptt. of Revenue),
North Block, New Delhi.
2. The Chairman,
Central Board of Excise & Customs,
North Block, New Delhi.
3. The Commissioner of Central Excise,
Central Excise Commissionerate,
C.R. Building, New Delhi.
4. The Commissioner of Customs(General),
New Customs House,
New Delhi. Respondents

(through Sh. R.N. Singh, Advocate)

ORDER (ORAL)^h

Hon'ble Sh. Shanker Raju, Member(J)

Applicant impugns Memorandum issued under Rule 14 of the CCS(CCA) Rules, 1965 (hereinafter referred to as Rules) initiating a major penalty proceedings against him. Quashing of the above has been sought with all consequential benefits.

2. While working as Superintendent, Customs and Central Excise for violation of CCS(Conduct) Rules, 1964 applicant has been ordered to

be proceeded against for a major penalty on the allegations pertaining to the year 1996 under Rule 14 of the CCS(CCA) Rules, 1965.

3. As the enquiry was protracted and inordinately delayed, applicant approached the Court in OA-649/2002 assailing the disciplinary proceedings.

4. By an order dated 7.3.2002 at the admission stage without issuing notices to the opposite party though rejecting the request of the applicant for interference on merits at inter locutory stage directions have been issued to conduct the proceedings as far as possible on day today basis and to conclude the same within a period of six months from the date of receipt of a copy of this order.

5. MA-2147/2002 filed by the respondents seeking extension of time to conclude the proceedings on the ground that the enquiry officer has completed the enquiry and is to submit his report to the Disciplinary Authority, further time of six weeks was accorded to the respondents to comply with the directions.

6. MA-1684 and MA-1685 of 2003 filed for further extension of time were rejected by an order dated 4.9.2003.

7. Learned counsel of the applicant contends that the enquiry has been inordinately delayed against the instructions is attributable to the respondents which has prejudiced his right of promotion.

8. On the other hand respondents' counsel contends that on submission of the enquiry report the Disciplinary Authority under Rule 15(1) of CCS(CCA) Rules remanded back for further enquiry in June 2003 and there is no intentional delay on part of the respondents. The delay has taken as new Inquiry Officer & Presenting Officer were appointed on 1.11.2000 and consultation has been made from CVC.

9. On careful consideration of rival contentions of the parties, we find that the Tribunal earlier issued directions not on merits but to conclude the proceedings within a period of six months which has extended till January, 2003. Another MA for extension was turned down. There is no specific directions either in the order passed in DA or MA as to abatement of the proceedings on expiry of the aforesaid period. Though the enquiry was completed on 23.12.2002, the Disciplinary Authority has passed order under Rule 15(1) within his jurisdiction to remand the case for further enquiry.

10. In our considered view conclusion of the disciplinary proceedings would be with a final

order passed by the disciplinary authority which is under Rule 15 of the CCS (CCA) Rules, *ibid*. An order passed under Rule 15(1) does not give finality to the disciplinary proceedings which is to be held in the form of a further enquiry and on submission of the report a final order is to be passed.

11. In absence of a positive direction as to abatement of the disciplinary proceedings after January 2003 having regard to the DOP&T O.M. dated 11.11.1998 providing time limit of three months to pass an order is not a mandate and would not have an effect of abatement of the proceedings.

12. Having regard to the above, as almost 7 years from the date of misconduct have elapsed, we dispose of this OA with the direction to the respondents to conclude the disciplinary proceedings by passing a final order Rule 15 *ibid* within a period of three months from the date of receipt of a copy of this order. This shall, however, subject to the utmost cooperation extended by the applicant. Failure to pass a final order within the aforesaid time limit would abate the disciplinary proceedings. No costs.

S. Raju
(Shanker Raju)
Member(J)

V.K. Majotra
(V.K. Majotra) 5.5.04
Vice-Chairman(A)