

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

CP NO. 433/2003 IN
OA NO. 1931/2003

This the 15th day of December, 2003

HON'BLE SH. KULDIP SINGH, MEMBER (J)
HON'BLE SH. S.K. NAIK, MEMBER (A)

Sh. Ranjan Suri,
Additional Director,
Central Excise & Customs,
Regional Training Institute,
NACEN, Hazaribagh (Jharkhand),
PIN-825 301.

(By Advocate: Sh. Prabhjot Jauhar)

Versus

1. Smt. Vinita Rai,
Secretary (Revenue),
Department of Revenue,
Ministry of Finance, North Block,
New Delhi-110002.
2. Sh. A.K.Singh,
Chairman,
Central Board of Excise & Customs,
Department of Revenue,
Ministry of Finance, North Block,
New Delhi-110002.
3. Sh. V.P.Arora,
Under Secretary (Ad-V),
Department of Revenue,
Ministry of Finance, North Block,
New Delhi-110002.

O R D E R (ORAL)

By Sh. Kuldip Singh, Member (J)

Applicant has filed a CP under Section 17 of the AT
Act read with Contempt of CAT Rules against the respondents.

2. Facts in brief are that applicant who is an officer of Indian Customs & Central Excise Service Group-A had been issued a memo dated whereby the respondents had proposed to hold an enquiry against the applicant on the allegations that the applicant while working as Assistant Collector (redesignated as Assistant Commissioner), Customs (Review),

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Customs & Central Excise, Jaipur was holding an additional charge of Assistant Collector of Customs, Jaipur in the year 1993 and had failed to discharge his duties with utmost devotion and diligence and committed gross misconduct so far an alleged offence in 1993, applicant was issued a memo on 9.4.2003 for holding an enquiry.

3. Applicant filed the present OA and asked for quashing of the memo and also prayed for an interim order. While order dated 27.8.2003 respondents were restrained from giving effect to the impugned order dated 9.4.2003 till the next date of hearing. OA was finally disposed of on 13.11.2003 and impugned memorandum dated 9.4.2003 was quashed. Present CP has been filed as the applicant alleges that despite the interim order dated 27.8.2003 the respondents have given effect to the impugned order dated 9.4.2003 as petitioner was on verge of his promotion to the grade of Commissioner and in a bid to stop his promotion a memo was issued.

4. It is further stated that though the petitioner belongs to 1983 batch and DPC for regularisation of his earlier ad hoc promotion for the post of Assistant Collector to the post of Joint Commissioner was conducted in respect of the said batch on or around 8.10.2003 and though the name of the applicant was apparently found to be fit but still the case of the applicant was kept in a sealed cover and respondents have issued an order dated 17.10.2003 regularising the earlier ad hoc promotion of the officers of 1982, 1983, 1984 and 1985 batches to the post of Joint Commissioner but the applicant was not given promotion as his name was kept in sealed cover. Thus, in a way, respondents had given effect to the memo dated



9.4.2003 despite the order dated 27.8.2003. Hence it is prayed that contempt of court proceedings be initiated against the applicant.

5. We have heard the learned counsel for the applicant and gone through the record. Undoubtedly, an order dated 27.8.2003 was passed restraining respondents from giving effect to the impugned order dated 9.4.2003 vide which the respondents had proposed to hold an enquiry. Now the question arises what is the import of the order restraining the respondents to give effect to the impugned order dated 9.4.2003. In our view the only effect of this was that no further action was to be taken on the impugned memo dated 9.4.2003.

6. Holding of DPC for regularising ad hoc promotions to the post of Joint Commissioner was a separate act of the respondents and the fact that the memo had been issued which was subjudiced so the respondents in their wisdom had kept the case of the applicant in a sealed cover. That is also the law of the land as whenever an officer has been issued a memo or his vigilance is not clear the case of the officer has to be considered by the DPC but as far as the instructions on the subject the case of the said officer has to be kept in sealed cover. After the clearance of the vigilance or the criminal prosecution or departmental enquiry the sealed cover can be opened and whatever the recommendations of the DPC that can be implemented.

7. In this case we find that merely keeping the case of the applicant under sealed cover by the DPC because a memo had already been issued that does not mean that the respondents in

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contravention of the interim order passed by this Tribunal had given effect to the memo dated 9.4.2003. Thus, we find that no case for contempt is made out. As such CP is dismissed.

Shrikant

(S.K. NAIK)
Member (A)


(KULDIP SINGH)
Member (J)

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