

Central Administrative Tribunal
Principal Bench

O.A. No.77/2003

New Delhi this the 12th day of January, 2004

Hon'ble Shri Shanker Raju, Member (J)
Hon'ble Shri S.A. Singh, Member (A)

Hans Raj
Inspector
RZ-H-132
Dharampura Colony,
Najafgarh.

-Applicant
(By Advocate: Shri M.K. Bhardwaj)

Versus

Union of India & Ors. Through

1. The Secretary
Ministry of Finance
Department of Revenue
North Block, New Delhi.

2. The Member (P&V)
Central Board of Excise & Customs
Ministry of Finance
Department of Revenue,
New Delhi..

3. The Collector (Customs)
Customs & Central Excise Collectorate
Central Revenue Building
New Delhi.

4. The Deputy Collector (P&V)
Customs and Central Excise Collectorate
C.R. Building, New Delhi.

-Respondents
(By Advocate: Shri M.M. Sudan)

ORDER (Oral)

Hon'ble Shri Shanker Raju, Member (J)

Applicant impugns a major penalty imposed vide order dated 26.3.98 of stoppage of two increments cumulatively as well as appellate order dated 25.4.2001 and the order on revision dated 1.8.2002, upholding the punishment.

2. Earlier the applicant being aggrieved with imposition of punishment approached the Tribunal in

OA-1889/92. By an order dated 19.12.97, orders were quashed with a direction to respondents to re-consider the applicant after a show cause notice as there have been a disagreement by the Disciplinary Authority. As the disagreement has not been arrived at after supplying a copy of the enquiry report, major punishment was imposed, which, on preferring appeal and revision, ~~was rejected~~, giving rise to the present OA.

3. Inter-alia, several grounds have been raised by the learned counsel for applicant but at the outset, it is stated that the applicant while wrongly identifying one Shri R.S. Oberoi as Shri S.P. Singh has not committed any misconduct.

4. While referring to the enquiry report, it is stated that the enquiry officer has not proved the charge of identification of R.S. Oberoi as S.P. Singh for ulterior motive but identification of a wrong person was established. The recommendation of the charged officer was to imposition of a minor penalty.

5. The same has not been adhered to by the respondents.

6. Referring to a decision of the High Court of Delhi in CW No.932 of 2001 **Jai Prakash Vs. CBI and others** decided on 7.4.2003, it is stated that therein when the enquiry officer made his recommendations, the

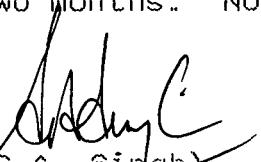
Disciplinary Authority has not at all taken into consideration, which has been ignored. Accordingly, it is stated by Shri M.K. Bhardwaj that on all fours, decision of High Court (supra) covers the present case as well.

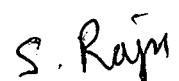
7. On the other hand, Shri M.M. Sudan vehemently opposed the contentions but has not disputed the decision of the High Court (supra).

8. Having regard to the decision of the High Court as despite recommendations of Enquiry Officer where the charges partly proved to impose a minor penalty, non-consideration of such request by the ^{As per} Disciplinary Authority, the dictum of the High Court (supra) the punishment and consequent orders cannot be sustained in law.

9. The other grounds are not adjudicated.

10. In the result, OA is partly allowed. Impugned orders are quashed and set aside. However, this shall not preclude the respondents from passing a fresh order having regard to the recommendation of the enquiry officer keeping in view the decision of the High Court of Delhi (supra). The aforesaid exercise shall be undertaken and completed within a period of two months. No costs.


(S.A. Singh)
Member (A)


S. Raju
(Shanker Raju)
Member (J)

CC.