IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10403 of 2021

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1. The Commissioner of Central Goods and Service Tax and Central Excise, Ministry of Fiance, Government of India, 143 New Baradwari, Sakchi, Jamshedpur - 831001, at present GST Bhawan, Outer Circle Road, Bistupur, Jamshedpur, Jharkhand - 831001.
2. The Chairman, Central Board of Excise and Customs, Ministry of Finance, Government of India, North Block Mew Delhi 110021.
3. The Director General of Vigilance, Ministry of Finance, Department of Revenue, Government of India, Central Board of Excise and Customs, 1st and 2nd floor, Hotel Samrat, Kautilya Marg, Chanakyapuri, New Delhi 110021.
4. The Chief Vigilance Officer, Ministry of Finance Department of Revenue, Government of India, Central Board of Excise and Customs, HUDCO, Vishala Building, Bhikaji Cama Place, R K Puram, New Delhi 110021.
5. The Chief Commissioner, Central Goods and Service Tax and Central Excise (Ranchi Zone), Central Revenue Building, Birchand Patel Path, Patna-800001 (Bihar).
6. The Joint Commissioner of Central Goods and Service Tax and Central Excise (P and V) Ministry of Finance, Government of India 143, New Baradwari, Sakchi, Jamshedpur 831001.
7. Sri Mahfuzar Rahman, the Commissioner of Central Goods and Service Tax and Central Excise, Ministry of Finance, Government of India, Outer Circle Road, Bistupur, Jamshedpur.
8. Sri Pratyush Gorai, Assistant Commissioner (Preventive), Central Goods and Service Tax and and Central Excise, Outer Circle Road, Bistupur, Jamshedpur.

... ... Petitioner/s

Versus

1. Binod Kumar Sinha son of Late Sindhu Sharan Sinha Superintendent Central Goods, Service Tax and Central Excise, Ministry of Revenue, Government of India, Gaya Range Gaya (Bihar) resident of House No. B-205, Millennium Homes, Bind Toli, Sheikhpura, P.O. B.V. College, P.S. Shastri Nagar, Town and District Patna, Pin Code - 800014 (Bihar)
2. The Union of India through the Secretary (Revenue) Government of India, Ministry of Finance, Department of Revenue, New Delhi 110021.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. K.N. Singh, Sr. Advocate Mr. Anshuman Singh, Advocate
For the Respondent/s	:	Mr.Munna Pd Dixit (M.P. Dixit), Advocate Mr. S.K. Dixit, Advocate Mr. S.K. Choubey, Advocate Ms. Swastika, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 10-10-2022

Rejoinder to written statement is filed and the same is taken on record.

2. Heard learned counsels for the parties.

3. In the instant petition, the Commissioner of Central Goods and Service Tax and Central Excise and others have questioned the validity of the order dated 20.01.2021 passed in O.A No. 050/00235 of 2020, by the Central Administrative Tribunal, Patna Bench (for short "Patna Bench").

4. Respondent Binod Kumar Sinha and others were subjected to disciplinary proceedings. The alleged charge is stated to have been issued in the month of October 1996.

5. Feeling aggrieved by the initiation of departmental inquiry, respondent- Binod Kumar Sinha preferred O.A. No. 170 of 2012 and it was allowed in favour of respondent with certain directions on 24.09.2014.

Para 7 of the order dated 24.09.2014 reads as under:-

"*In view of the above, this Tribunal holds as below:-*

(I) The prayer of the applicant to set aside the orders of the appellate authority dated 03.06.2011 (Annexure A/7), solely and merely on grounds of inordinate delay is not allowed given the fact that the charges against the applicant along with other officials are extremely grave. Further, that the orders for conducting a fresh inquiry are based on grounds of procedural and documentary lapses and not on merits relating to the guilt/innocence of the charged officials.

(ii) The respondents are granted a period of six weeks from the date of receipt/communication of this order to appoint a common Inquiry authority for conducting a fresh disciplinary proceedings. It has

been famously said in the apst that no decision within the period stipulated herein, it will be assumed that they have no intention to continue with the disciplinary proceedings and the same, against the applicant, shall stand terminated.

(iii) In the eventuality, the respondents appoint a common Inquiry authority within the time frame stipulated in (ii) above, they shall ensure the completion of the entire disciplinary Inquiry within a period of six months thereafter."

6. Due to non-compliance of the aforesaid order, Respondent- Binod Kumar Sinha filed O.A. No. 050/00235 of 2020 in which he has prayed for following relief:-

"Applicant, an Superintendent of Central Goods, Service Tax & Central Excise, being aggrieved by orders dated 13/05/2021 & 7/5/2020 whereby Common Disciplinary and Inquiry Authority have been appointed relating to charge-sheet dated 18/10/1996 issued to applicant, has preferred instant OA pleading that Departmental

Proceeding relating to said Charge-sheet had to be deemed to be quashed in view of order dated 24.09.2014 passed in O.A. 170/2012. Applicant has made prayer to quash aforesaid orders dated 13/05/2020 & 7/5/2020. After issuance of notice, respondent contesting the OA has filed the written statement.

Aforesaid O.A. No. 050/00235 of 2020 was allowed on 20th January 2021."

7. Hence, the present petition by the Commissioner of Central Goods and Service Tax and Central Excise and Others.

8. Learned counsel for the petitioner vehemently contended that having regard to the alleged charge which are grave in nature. Therefore, fixation of time limit for appointment of common inquiring authority and conclusion of inquiry was not undertaken due to administrative difficulties that some of the co-employee were posted in different parts of the departments and administrative control/disciplinary authority would be different which has resulted in non-compliance of the order dated 24.09.2014. Therefore, the Tribunal has committed error in allowing O.A. No. 050/00235 of 2020.

9. Heard learned counsel for the petitioner.

10. Perusal of the dates and events, it is evident

that alleged charge relates to prior to the year 1996 as is evident from the charge sheet dated 18.10.1996 and it was subject mater of litigation of O.A. No. 170 of 2012 and it was decided on 24.09.2014 with certain directions. If the petitioner-department had certain administrative difficulties in complying the order dated 24.09.2014, they had remedy of filing review petition seeking further time to appoint a common authority to hold common proceedings and conclusion or else. They had remedy of filing writ petition. On the other hand, petitioner-department slept over the order of the Tribunal dated 24.09.2014. Departmental lapses in not complying the order dated 24.09.2014, cannot be ignored so as to find any error in the order dated 20th January 2021 passed in O.A. No. 050/00235 of 2020.

11. In the light of these facts and circumstances, the present writ petition stands dismissed.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

shoaib/-

AFR/NAFR	
CAV DATE	
Uploading Date	19.10.2022
Transmission Date	