IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.376 of 2019
In
Civil Writ Jurisdiction Case No.1957 of 2019

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Leela Devi, Wife of Late Prem Bahadur Lal, Ex - Inspector, Central Excise, Patna, Resident of Mithapur, B-Area, Nehru Lane, P.O. Patna GPO, District - Patna (Bihar).

... ... Petitioner/s

Versus

1. The Union of India through the Secretary(Revenue), Government of India, Ministry of Finance, Department of Revenue, North Block, New Delhi.
2. The Chairman, Central Board of Excise and Customs (Now Central Board of Indirect Taxes and Customs), Ministry of Finance, Government of India, North Block, New Delhi
3. The Director General of Vigilance, Cumstoms and Central Excise, 1st and 2nd Floor, Hotel Samrat, Kautilya Marg, Chanakyapuri, New Delhi.
4. The Chief Vigilance Officer, Central Board of Excise and Customs (Now Central Board of Indirect Taxes and Customs), Ministry of Finance, Department of Revenue, Government of India, Bhikaji Cama Place, R.K. Puram, New Delhi.
5. The Chief Commissioner, Central Excise and Service Tax(Now Central Goods and Services Tax and Central Excise), Ranchi Zone, Patna.
6. The Commissioner, Central Excise and Service Tax(Now Central Goods and Services Tax and Central Excise), Patna- 800001.
7. The Joint Commissioner(P and V), Central Excise (Now Central Goods and Services Tax and Central Excise) Hqrs, Patna.
8. The Secretary, Union Public Service Commission, New Delhi.

... ... Opposite Party/s

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with

CIVIL REVIEW No. 374 of 2019
In
Civil Writ Jurisdiction Case No.2007 of 2019

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Janardan Sharma, Son of Late Ram Bhawan Singh, Ex-Inspector Central Excise, Patna, Resident of Adarsh Nagar, Dalluchak, P.O- Khagaul, District- Patna (Bihar).

... ... Petitioner/s

Versus

1. The Union of India through the Secretary (Revenue), Government of India,

Ministry of Finance, Department of Revenue, North Block, New Delhi.

2. The Chairman, Central Board of Excise and Customs (Now Central Board of Indirect Taxes and Customs) Ministry of Finance, Government of India, North Block, New Delhi.
3. The Director General of Vigilance, Customs and Central Excise, 1st and 2nd Floor, Hotel Samrat, Kautilya Marg, Chanakyapuri, New Delhi.
4. The Chief Vigilance Officer, Central Board of Excise and Customs (Now Central Board of Indirect Taxes and Customs), Ministry of Finance, Department of Revenue, Government of India, Bhikaji Cama Place, R.K. Puram, New Delhi.
5. The Chief Commissioner, Central Excise and Service Tax (Now Central Goods and Services Tax and Central Excise), Ranchi Zone, Patna.
6. The Commissioner, Central Excise and Service Tax (Now Central Good and Services Tax and Central Excise), Patna- 800001.
7. The Joint Commissioner (P and V), Central Excise (Now Central Good and Services Tax and Central Excise) HQRS. Patna.
8. The Secretary, Union Public Service Commission, New Delhi.

... ... Opposite Party/s

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with

CIVIL REVIEW No. 375 of 2019

In

Civil Writ Jurisdiction Case No.2242 of 2019

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Ramanand Prasad, Son of Late P.N. Lal, Ex- Inspector Central Excise, Patna, Resident of DR Narayan Prasad Colony, Nanhmuhia, P.O. Gulzarbagh, District- Patna (Bihar).

... ... Petitioner/s

Versus

1. The Union of India through the Secretary (Revenue), Government of India, Ministry of Finance, Department of Revenue, North Block, New Delhi.
2. The Chairman, Central Board of Excise and Customs (Now Central Board of Indirect Taxes and Customs), Ministry of Finance, Government of India, North Block, New Delhi.
3. The Director General of Vigilance, Customs and Central Excise, 1st and 2nd Floor, Hotel Samrat, Kautilya Marg, Chanakyapuri, New Delhi.
4. The Chief Vigilance Officer, Central Board of Excise and Customs (Now Central Board of Indirect Taxes and Customs), Ministry of Finance, Department of Revenue, Government of India, Bhikaji Cama Place, R.K. Puram, New Delhi.
5. The Chief Commissioner, Central Excise and Service Tax (Now Central

Goods and Services Tax and Central Excise), Ranchi Zone, Patna.

6. The Commissioner, Central Excise and Service Tax (Now Central Goods and Services Tax and Central Excise), Patna- 800001.
7. The Joint Commissioner (P and V), Central Excise (Now Central Goods and Services Tax and Central Excise) HQRS. Patna.
8. The Secretary, Union Public Service Commission, New Delhi.

... ... Opposite Party/s

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Appearance :

(In CIVIL REVIEW No. 376 of 2019)

For the Petitioner/s	:	Mr. Munna Pd Dixit (M.P. Dixit), Advocate
		Mr. Sanjay Kumar Dixit, Advocate
		Mr. Sanjay Kumar Chaubey, Advocate
		Ms. Swastika, Advocate
		Mr. Shailendra Kumar, Advocate
		Mr. Milind Raj Dixit, Advocate
		Mr. Punit Ranjan Dixit, Advocate
For the Opposite Party/s	:	None

(In CIVIL REVIEW No. 374 of 2019)

For the Petitioner/s	:	Mr. Munna Pd Dixit (M.P. Dixit), Advocate
		Mr. Sanjay Kumar Dixit, Advocate
		Mr. Sanjay Kumar Chaubey, Advocate
		Ms. Swastika, Advocate
		Mr. Shailendra Kumar, Advocate
		Mr. Milind Raj Dixit, Advocate
		Mr. Punit Ranjan Dixit, Advocate
For the Opposite Party/s	:	None

(In CIVIL REVIEW No. 375 of 2019)

For the Petitioner/s	:	Mr. Munna Pd Dixit (M.P. Dixit), Advocate
		Mr. Sanjay Kumar Dixit, Advocate
		Mr. Sanjay Kumar Chaubey, Advocate
		Ms. Swastika, Advocate
		Mr. Shailendra Kumar, Advocate
		Mr. Milind Raj Dixit, Advocate
		Mr. Punit Ranjan Dixit, Advocate
For the Opposite Party/s	:	None

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 30-08-2024

All the three review petitions have been taken up together for convenience. However, the facts of Civil Review No. 376 of 2019 has been taken as the reference point.

2. We have heard Mr. M.P. Dixit, the learned Advocate for all the review petitioners.

3. No one has appeared on behalf of the opposite parties.

4. In Civil Review No. 376 of 2019, the wife of the employee was substituted on his death during the pendency of C.W.J.C. No. 1957 of 2019. Her husband was posted as an Inspector, Customs, Central Excise, Land Custom Station, Jogbani.

5. The other two review petitioners were also posted as Inspectors at Jogbani only.

6. All the three employees were proceeded against in the domestic inquiry where they were given a clean-chit. However, the report of the Enquiry Officer was not accepted by the Disciplinary Authority, who, on perusal of the entire records, found and opined that employees be subjected to a punishment of reduction of 50% cut in their pensionable amount for five years by separate orders dated 08.07.2013.

7. All the review petitioners had challenged the afore-noted order in the departmental proceeding before the CAT, where the punishment imposed upon them was set aside.

8. That judgment of CAT was put to challenge by Union of India and CBDT in three writ petitions before this Court, viz., CWJC Nos. 1957, 2007 and 2242 of 2019.

9. The writ petitions were allowed and after setting aside the order passed by CAT, the order of the Disciplinary Authority was upheld.

10. While passing such composite order in all the three writ petitions referred to above, this Court had come to a finding that the review petitioners/employees were responsible, to a large extent, for the Surat based exporters to garner inadmissible export benefits. Many anomalies were found in the functioning of the review petitioners and in fact, the certificates/endorsements confirming the transport of goods to Nepal was found to be suspicious. The records revealed that the Disciplinary Authority, differing with the favourable inquiry report, called upon the review petitioners to respond to the issues on which the Disciplinary Authority chose to differ with the report of the Inquiry Officer. The Disciplinary Authority, thereafter, on perusal of the entire records and the explanation of the review petitioners, found that the report of the Inquiry Officer was lop-sided and could not have been sustained.

11. The Disciplinary Authority, therefore, imposed a penalty of 50% cut in their pensions for the

next five years. This was under Rule 9 of the CCS (Pension) Rules, 1972. The matter was forwarded to the Government for decision by the Ministry on behalf of the President under Rule 9. Thereafter, the records were referred to UPSC for its advice, which also opined that in view of grave misconduct committed by the review petitioners, 50% pension be deducted for five years.

12. It was argued before this Court by the review petitioners that the Tribunal was perfectly justified in accepting the report of the Inquiry Officer and that different standards were employed in dealing with the cases of other employees with similar charges.

13. The afore-noted contention on behalf of the review petitioners was not accepted and it was found that there was nothing amiss in the order of the Disciplinary Authority requiring any interference at that stage.

14. The order of the Tribunal, therefore, was set aside and the order of the Disciplinary Authority was

restored.

15. The main reasons for the petitioners to seek review are that:

(i) the Disciplinary Authority did not apply its own independent mind but based its opinion on the advice at two stages by the Department and;

(ii) that once the Disciplinary Authority had sounded difference of opinion with the report of the Inquiry Officer, the review petitioners ought to have been called upon to respond to the same. This requirement, according to the review petitioners, was not fulfilled.

16. This appears to be an incorrect statement factually. In fact, the review petitioners were noticed with respect to the note of difference by the Disciplinary Authority and only after analyzing their response, the order was passed.

17. There is nothing on record to indicate that the Disciplinary Authority blindly followed the advice

of the Department. The order of the Disciplinary authority is based on *a fortiori* reasons.

18. No good ground has been made out by all the three petitioners for any re-look at the judgment.

19. All the petitions are dismissed.

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

Sauravkrsinha/
Krishna-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.09.2024
Transmission Date	NA