

Jvs.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 11117 OF 2024

Union of India, through Chief	}	
Commissioner of Customs & Anr.	}	Petitioners
versus		
Balwant Ramashankar Singh	}	Respondent

Mr. R. S. Apte, Senior Advocate with
Mr. Niranjan Shimpi for petitioner.

Mr. Rahul Walia with Ms. Asmita
Pendharkar for respondent.

**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
AMIT BORKAR, J.**

DATE: 21st AUGUST 2024

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- 1.** Heard Mr. Apte, learned senior advocate, assisted by Mr. Niranjan Shimpi, learned counsel for the petitioners and Mr. Walia, learned counsel representing the respondent.
- 2.** Rule. With the consent of the learned counsel for the parties, Rule is made returnable forthwith. We proceed to dispose of the petition finally.
- 3.** Under challenge in this petition is the judgement and order dated 4th May 2023 passed by the Mumbai Bench of Central Administrative Tribunal (hereinafter referred to as "the Tribunal"), whereby Original Application No. 429 of 2019 filed by the respondent herein has been allowed and the order of

punishment dated 11th November 2016, whereby the pay of the respondent was reduced by two stages w.e.f. 1st December 2016 for a period of two years and the appellate order dated 12th September 2018 have been set aside.

4. On certain charges, it appears that the departmental inquiry was instituted against the respondent. Based on the inquiry, a report was submitted by the Inquiry Officer, dated 8th October 2015, wherein the allegations against the respondent were not found proved, however, the Disciplinary Authority considered the inquiry report and recorded a disagreement note dated 8th June 2016 expressing a view different from the view of the Inquiry Officer recorded in the inquiry report and proceeded further to pass the order of punishment on 11th November 2016, whereby pay of the respondent was reduced by two stages w.e.f. 1st December 2016 for a period of two years.

5. Feeling aggrieved by the said order of punishment dated 11th November 2016, the respondent preferred a departmental appeal before the Appellate Authority, which was dismissed by means of the order dated 10th/12th September 2018. The respondent, thereafter, filed Original Application No. 429 of 2019 before the Tribunal challenging the order of punishment dated 11th November 2016 and the order passed by the Appellate Authority, dated 10th/12th September 2018.

6. The Tribunal, by means of the impugned judgement and order dated 4th May 2023 has allowed the Original Application thereby quashing the order of punishment dated 11th November 2016 and the appellate order passed by the Appellate Authority.

7. The petitioners have, thus, challenged the said order passed by the Tribunal on 4th May 2023 by instituting these proceedings. It has been submitted by Mr. Apte, learned senior advocate representing the petitioners that the Tribunal, while setting aside the order of punishment and the appellate order, has not assigned any reason as to why the disagreement note of the Disciplinary Authority, where he had recorded his disagreement with the findings of the Inquiry Officer, is perverse. He has submitted that, in fact, the Tribunal, after recording the respective cases of the parties pleaded before it, has drawn a conclusion without giving any reason therefor, whatsoever.

8. On the other hand, Mr. Walia, learned counsel representing the respondent has argued that the Tribunal has recorded its satisfaction that both, the Disciplinary Authority and the Appellate Authority, have materially erred in interfering with the findings recorded by the Inquiry Officer, which is on appreciation of the evidence on record. He further stated that no fault can be found with the view taken by the Tribunal in the impugned order, which is under challenge herein.

9. Having considered the respective submissions made by the learned counsel representing the competing parties, what we find is that the Tribunal has completely failed to give any reason whatsoever for arriving at its conclusion in the impugned judgment. The Tribunal, after recording the submissions of the respondent in paragraphs 2 to 8.5 of the judgment, further records the submissions of the petitioners in paragraphs 9 to 12 and thereafter notices certain judgements and abruptly draws its conclusion in para 15 of the impugned judgement. In

paragraph 15 of the impugned judgement, the Tribunal records that the Disciplinary Authority, while disagreeing with the Inquiry Officer, has recorded a finding which was not supported by any evidence. However, as to what evidence was available on the record of the inquiry proceedings and in what manner the evidence was considered and conclusions were arrived at by the Inquiry Officer and the Disciplinary Authority respectively and the reason for the Disciplinary Authority to have differed from the Inquiry Officer, have not been discussed at all by the Tribunal.

10. It is a case where the Disciplinary Authority, on conclusion of the inquiry, took a view different from the view taken by the Inquiry Officer and accordingly, recorded his disagreement on the disagreement note dated 8th June 2016. If the Tribunal was of the opinion that the reasons accorded by the Disciplinary Authority for recording his disagreement in the disagreement note dated 8th June 2016 were not tenable, the Tribunal was expected to give reason therefor after weighing the evidence available and gathered during the course of the inquiry. Merely by saying that the findings recorded by the Disciplinary Authority are not supported by evidence does not suffice. Any adjudicating authority or Court or Tribunal has to record findings giving reasons, especially when the findings recorded by the subordinate Tribunal/Court/authorities are being overturned.

11. When we peruse the impugned judgement and order passed by the Tribunal, we find that no such reason has been recorded by the Tribunal to arrive at its conclusion as to how the inference drawn by the Disciplinary Authority, whereby he had taken a view different from the view taken by the Inquiry

Officer, was perverse. For arriving at a conclusion of perversity in findings, it is necessary for the Court/Tribunal to discuss and weigh the evidence and after application of mind, draw a conclusion as to how and in what manner there is perversity in the findings recorded by the subordinate Court/Tribunal/Authority.

12. Since the impugned judgement and order passed by the Tribunal is bereft of any such reasoning, in our opinion, the same is liable to be struck down.

13. Accordingly, the petition is allowed and the impugned judgement and order dated 4th May 2023 passed by the Tribunal in Original Application No. 429 of 2019 is hereby quashed.

14. The Tribunal is directed to restore the Original Application No. 429 of 2019 on its file and decide the same afresh in accordance with law and the observations made hereinabove in this pronouncement.

15. We also direct that the proceedings before the Tribunal under this order shall be expedited and concluded, in any case, within a period of six weeks from the date a certified copy of this order is produced.

16. We also direct that the parties shall appear before the Tribunal on 26th August 2024 and no further notice will be required to be served upon them by the Tribunal.

17. Rule is made absolute in the aforesaid terms.

18. There shall be no order as to costs.

(AMIT BORKAR, J.)

(CHIEF JUSTICE)