



2025:DHC:6472-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 05.08.2025

+ W.P.(C) 8618/2003
B.K.SINGH

.....Petitioner

Through: Mr.D. K. Rustagi, Ms.Anjali
Pandey and Mr.Sumit Ghartan,
Advs.

versus

UOI & ORS.

.....Respondents

Through: Mr.Mukul Singh, CGSC with
Mr.Aryan Dhaka, Adv. for R-1
and R-2

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE MADHU JAIN

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed by the petitioner, challenging the Order dated 12.05.2003 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in OA No. 1896/2002, titled *Shri B.K. Singh v. Union of India & Ors.*, partially allowing the said O.A. filed by the petitioner herein, by upholding the finding of dereliction of duty and misconduct against the petitioner, while also observing that since no specific and definite period has been indicated for which the increments are withheld, the punishment imposed on the petitioner and confirmed in appeal is not in conformity with the guidelines of the Government of



India. Accordingly, the learned Tribunal quashed the Penalty Orders impugned before it, while reserving liberty to the respondents, if so advised, to pass a fresh order of penalty.

2. At the outset, we may herein note that subsequent to the remand of the case to the respondents by the learned Tribunal by way of the Impugned Order, the respondents have proceeded to pass a fresh Penalty Order dated 25.07.2005. Though the petitioner sought to challenge the same before this Court by way of an application under Order VI Rule 17 of the Code of Civil Procedure, 1908, being CM No. 14745/2006, however, the same was not pressed and the following statement of the learned counsel for the petitioner was recorded in the Order dated 29.10.2007:

“Learned Counsel for the Petitioner states that this application be heard alongwith the writ petition.

Inasmuch as if in case the writ petition is allowed, consequences thereof would be that the order dated 25th July 2005 which is sought to be impugned by this amendment shall also stand quashed.”

3. Therefore, the Order dated 25.07.2005 is not a subject matter of challenge in the present petition and we would not make any comment on the same.

4. The limited challenge of the petitioner in the present petition is that the learned Tribunal has erred in confirming the finding of dereliction of duty on the part of the petitioner.

5. It is the case of the petitioner that the petitioner was working as an Appraiser with the Customs Department and was posted at the IGI Airport and was working in the Warehouse.



6. On 21.05.1993, the Air Customs Officer detained a consignment *vide* DR No. 33083 dated 27.05.1993, making the following remarks:

“DR No. 33083 dated 27.5.93.

a. To be cleared after NOC from Wildlife Department and clearance as per rules (The words sample drawn by the wildlife department were struck off.

b. Contacted Wildlife Department but concerned officer was not available. So clearance cannot be done for 25.5.93.

c. Issued certificate NO. 12/WLP/NR dated 31.5.93 endorsement made by the Wildlife officer.”

7. Another consignment *vide* DR No. 23915 dated 27.05.1993 was also detained by the Air Customs Officer with similar remarks.

8. Though as mentioned in the above-quoted remarks, one of the requirements for clearing the consignments was a No Objection Certificate (‘NOC’) from the Wildlife Department, the Air Customs Officer, based on a Certificate produced by the passenger from the Government of Nepal certifying the detained product to be ‘*Raw Goat Wool*’, endorsed the release of the goods.

9. The petitioner claims that once the nature of the goods had been accepted by the Air Customs Superintendent and by the Air Customs Officer, the only work left for the petitioner was to assess the value of such goods. He claims that he duly assessed the value of the goods, and thereafter the goods were cleared as being exempt from customs duty.

10. The learned counsel for the petitioner submits that, therefore, in the entire process of release of the goods, the petitioner was not to be



blamed inasmuch as the nature of the goods that were detained had been accepted to be '*Raw Goat Wool*' by the Competent Authority, that is, the Air Customs Superintendent/Assistant Collector.

11. He further submits that the Disciplinary Authority and the Appellate Authority, while passing the orders impugned before the learned Tribunal, had also placed reliance on the fact that the detained goods were later found, from a Report received from the Department of Interior, USA, to which the sample was sent for forensic testing, to be from Chiru or Tibetan Antelope, which is a prohibited item for export. He submits that this Report was not put to the petitioner in the departmental inquiry and, therefore, could not have been made a basis for finding the petitioner guilty of the charge.

12. The learned counsel for the petitioner further submits that the Disciplinary Authority and the Appellate Authority had also placed reliance on the advice received from the Union Public Service Commission ('UPSC'), which again was not provided to the petitioner for his comments, thereby violating the principles of natural justice.

13. On the other hand, the learned counsel for the respondents submits that as an Appraiser, it was the duty of the petitioner to verify the nature of the detained goods, as the customs duty applicable on the same would depend on the nature of the goods so detained. He submits that the petitioner could not have shifted this burden only to the Report of the Air Customs Officer, and even if he found that the Air Customs Officer had wrongfully accepted the nature of the detained goods as '*Raw Goat Wool*' based on a Certificate issued by the Government of Nepal, it was the duty of the petitioner to have



pointed out this discrepancy to the Air Customs Officer rather than to allow it to proceed further.

14. He further submits that the fact that the Certificate from the Government of Nepal was dated post the detention of the consignment itself casts a doubt on the authenticity of the said Certificate, which again the petitioner failed to point out to the concerned Authority. He submits that, therefore, the charge of dereliction of duty stood proven against the petitioner.

15. We have considered the submissions made by the learned counsels for the parties.

16. It is not in dispute that the petitioner was working as an Appraiser with the Customs Department.

17. The goods were detained by the Customs Authorities against the abovementioned DR Nos. and one of the conditions for release of the same was for the NOC to be received from the Wildlife Department. Admittedly, the NOC from the Wildlife Department had not been received.

18. The Air Customs Officer, based on a Certificate issued by the Government of Nepal, however, had proceeded on the basis that the detained goods were '*Raw Goat Wool*'. The same was then forwarded to the petitioner. The petitioner, as an Appraiser, was bound to certify not only the value of the detained goods but also the nature of the same, because it is the nature of the goods that will determine its value and the duty payable thereon. The petitioner, therefore, should have insisted upon the NOC from the Wildlife Department, as had been insisted upon in the DR itself. If the petitioner had found that the Air



Customs Officer had, on an incorrect basis, considered the nature of the detained goods to be '*Raw Goat Wool*', he should have pointed out this discrepancy to the Air Customs Officer, rather than proceed further on the same basis. The Department found this to be a dereliction of duty. This Court, in the exercise of its powers under Article 226 of the Constitution of India, or the learned Tribunal in exercising its powers of judicial review under the Administrative Tribunals Act, 1985, cannot reappreciate the evidence or set aside the findings of the departmental proceedings only on the basis that it may have reached a different conclusion based on the evidence led. The scope of the jurisdiction to interfere with the departmental inquiry is very limited and in our view, the learned Tribunal has rightly found that the said parameters had not been met by the petitioner.

19. Coming now to the reliance of the Disciplinary Authority as also the Appellate Authority on a Report received from the Department of Interior, USA, once the earlier Penalty Order has been set aside by the learned Tribunal and the matter had been remanded back, the effect of reliance on this Report also gets obliterated. If the Disciplinary Authority has relied upon this Report even in the Punishment Order passed on remand, it will be a subject matter of the new challenge that the petitioner may lay.

20. As noted hereinabove, the subsequent Punishment Order that has been passed against the petitioner is not a subject matter of the present petition. Therefore, we will not make any comment on the validity of the subsequent Penalty Order passed against the petitioner.

21. Similar would be the fate of the submission of the learned



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counsel for the petitioner on the advice of the UPSC being not communicated to him before the passing of the Penalty Orders impugned before the learned Tribunal. Once the matter was remanded back, the advice of the UPSC would have been before the petitioner. In any case, as noted hereinabove, as the subsequent Penalty Order is not being challenged before us, we shall not make any comment on the same.

22. Keeping in view the limited challenge in the present petition to the Impugned Order passed by the learned Tribunal, we find no merit in the same. The Writ Petition is, accordingly, dismissed.

23. We, however, make it clear that we have not expressed any opinion on the subsequent Penalty Order passed against the petitioner, and it shall be open for the petitioner to avail of his remedies in accordance with the law.

NAVIN CHAWLA, J

MADHU JAIN, J

AUGUST 5, 2025/sg/SJ