
(1970) 02 SC CK 0068

In the Supreme Court Of India

Case No : Civil Appeal No. 2374 Of 1966

Kshirode Behari Chakravarty

APPELLANT

Vs

The Union of India (UOI)

RESPONDENT

Date of Decision : 05-02-1970

Acts Referred:

Citation : (1971) 3 SCC 850

Hon'ble Judges : K. S. Hegde, J;J. C. Shah, J;A. N. Grover, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

J.C. SHAH, J.-In a departmental enquiry the appellant was served with a charge-sheet on December 31, 1952, by the Collector of Central Excise, Shillong. There were two heads of charges - (1) that "in September 1950 the appellant gave six copies of Appendix II forms to Chandi Prasad Agarwalla knowing him to be a smuggler and wrote out the particulars of the consignments and the names of the consignors knowing that such goods are not permissible to be transported from India through Pakistan and thereby facilitated the smuggling of corrandar seeds from Pakistan to India treating them as in transit consignments from Sutarkandi to Calcutta", (2) that the appellant "allowed certain Appendix II applications handed over by him to Chandi Prasad Agarwalla to be impressed with the Official Rubber Stamp of Sutarkandi Land Customs Station and thereby facilitated the consignments to be treated as in transit consignments from Sutarkandi to Calcutta although no such consignments passed through Sutarkandi Land Customs Station to Calcutta". The appellant submitted his reply to those charges. It appears that at some stage he wanted to examine witnesses in defence and to tender some documents, but ultimately on May 14, 1953, he informed in a written communication under his signature to the enquiry officer that he did not want to tender any records in connection with the charges framed against him and that he did not desire to examine any witnesses in his defence as requested by him by his letter, dated February 16, 1953. He also stated in

answer to the question put to him by the enquiry officer that he had nothing more to say beside what was stated by him and requested that before passing orders "consideration should be given to his service in the military department".

2. The enquiry officer reported to the Collector of Customs that he was satisfied that the appellant was guilty of the charges raised against him and that the offences committed were serious and the only punishment that the appellant deserved was one of dismissal. The Collector of Customs then served a notice under Article 311(2) of the Constitution upon the appellant requiring him to show cause why he should not be dismissed from service. The appellant then submitted a detailed statement on the merits of the charges against him, but he did not contend that he was prevented from tendering any documentary evidence or examining any witnesses. The Collector of Customs considered the representation and passed an order on January 15, 1954, dismissing the appellant from service. An appeal filed by the appellant against the order of dismissal to the Central Board of Revenue was dismissed. The papers relating to the appeal are not before this Court. We are unable to ascertain what representations were made by the appellant in that appeal.

3. The appellant moved a petition before the High Court of Assam challenging the order of dismissal but that petition was summarily dismissed. The appellant then filed a suit in the civil court for a decree declaring that his dismissal from service was "illegal, ultra vires, wrongful and unjust" and for an order reinstating him in service and further declaring that he was entitled to receive arrears of pay and other emoluments due to him from the date of suspension. The trial court decreed the suit holding that the enquiry held against the appellant was not fair in that the appellant was not supplied the documents of which he had asked for inspection. The decree passed by the trial court was reversed by the High Court and the appellant's suit was dismissed. The appellant has appealed to the court with certificate.

4. Under Article 311(2) of the Constitution the appellant was, before he was dismissed from service, entitled to be informed of the charges against him, and of being given a reasonable opportunity of being heard in respect of those charges. The appellant was informed of the charges and opportunity of being heard was given to him. There is no substance in his plea that he was not given an opportunity of tendering his evidence, and examining witnesses in his defence. The appellant expressly stated before enquiry officer that he did not desire to examine any witnesses or tender documentary evidence. He did not contend before the Collector of Customs that the proceeding before the enquiry officer was unfair or that the Collector of Customs should give an opportunity to him to lead evidence. The enquiry under Article 311 is a domestic enquiry, and the court is not concerned with the question whether on the evidence before the officer or authority passing the order against the civil servant, there was sufficient evidence to justify the order. The guarantee under Article 311 is of the regularity of the enquiry. If the enquiry is not vitiated on the ground of any

procedural irregularity the court is not concerned to decide whether the evidence justified the order. Our attention was invited to certain statements made by the enquiry officer who was examined as a witness on behalf of the Union of India but we do not think that there is anything which would justify us in holding that the enquiry held by the enquiry officer was vitiated.

5. The appeal therefore fails and is dismissed. There will be no order as to costs.