

**Central Administrative Tribunal
Principal Bench**

OA No.265/2019



New Delhi, this the 13th day of March, 2020

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A.K. Bishnoi, Member (A)

Sudhir Gupta, GM, Group-A,
S/o Shri S.N. Gupta,
Aged about 52 years,
R/o 1004, Oasis Emerald Heights,
Ram Prastha Greens,
Vaishali, Ghaziabad, U.P.,
Presently at New Delhi.

...Applicant

(By Advocate : Shri Apurb Lal)

Versus

1. Union of India,
Ministry of Telecommunication & IT,
Department of Telecommunication,
Through its Secretary,
Sanchar Bhawan,
20, Ashoka Road,
New Delhi-110001.
2. The Chairman Cum Managing Director,
BSNL,
Bharat Sanchar Bhavan,
Harish Chandra Mathur Lane,
Janpath Road,
New Delhi-110001.
3. UPSC,
Through it : Secretary,
Dholpur House,
Shahjahan Road,
New Delhi-110069.

...Respondents

(By Advocates : Shri Subhash Gosain and Shri S.M.
Zulfiqar Alam)

ORDER (ORAL)**Justice L. Narasimha Reddy, Chairman :-**

The applicant is working as Chief General Manager with Bharat Sanchar Nigam Limited (BSNL). He was issued a charge memo dated 19.04.2011, with reference to his working as Telecom Divisional Manager (TDM) at Bundi between 2004 and 2006. Three articles of charges were framed, pertaining to the financial powers. They included the purchase of stores and payment of the RST/CST. The applicant submitted his explanation denying the articles of charge. The Disciplinary Authority (DA) appointed the Inquiry Officer (IO). Through his report dated 01.03.2013, the IO held the charges in Articles 1 & 3 as partly proved and Article 2, as fully proved. A copy of the report was made available to the applicant and he submitted his remarks.

2. Taking the report into account, the DA tentatively decided that Articles 1 & 2 are not proved and Article 3 is partly proved. He proposed the punishment of reduction in the time scale, by one stage, for a period of one year, without cumulative effect. The advice of the UPSC was



also obtained and a copy thereof was furnished to the applicant. Taking into account, the advice tendered by the UPSC and the representation submitted by the applicant, the Disciplinary Authority passed an order dated 23.09.2015, imposing the penalty of reduction of pay scale by one stage for a period of one year, without cumulative effect.

3. The applicant filed a review before the concerned authority. His contention was that one Shri Sanjeev Singhal, who was similarly placed as him, was imposed the penalty of 'Censure', whereas in his case, severe penalty was imposed. The DA forwarded the same to the UPSC for its opinion and on a consideration of the advice and the representation made by the applicant, passed an order dated 06.09.2017, modifying the punishment to the one of 'Censure'. This OA is filed challenging the order of punishment dated 23.09.2015, as modified through order dated 06.09.2017.

4. The applicant contends that the only charge, which was held partly proved against him, was almost inconsequential and it was highly technical in nature. He



contends that though similar charge was held proved against Shri Sanjeev Singhal, the punishment of 'Censure' was imposed on him, on account of some other charges, whereas in his case, the same punishment was imposed, despite the fact that there are no other allegations. Certain other grounds are also pleaded.

5. Respondents filed counter affidavit opposing the OA. It is stated that the prescribed procedure was followed at every stage and though punishment of reduction of pay scale by one stage was imposed, it was reduced to the one of 'Censure' in the review.

6. We heard Shri Apurb Lal, learned counsel for the applicant and Shri Subhash Gosain and Shri S.M. Zulfiqar Alam, learned counsel for respondents, at length.

7. Three articles of charges were framed against the applicant. All of them are related to the handling of finances by the applicant, in his capacity as TDM. In the inquiry, Article 1 & 3 were held as partly proved and Article 2 as fully proved. A copy of the report was made available to the applicant and on a consideration of the representation submitted by him, the DA took the view

that only Article 3 is partly proved. The said Article reads as under :-

“Article-III



That Shri Sudhir Gupta was working as TDM, Bundi during the period 2004 to 2006. He while working as above C Form was not asked while approving the store procurement cases. Hence the RST/CST was paid @ 8.15 to 10%, instead of the concessional rate (4%) against From C. Total amount comes to Rs.49,806/-, which have been paid in excess resulting loss to the tune of Rs.49,806/- to the BSNL.

Thus, by the aforesaid acts, said Shri Sudhir Gupta violated the provision of Circle office letters no. SP1-118/Sales tax/02-03/51 dated 28/02/2003, 08/04/2003 & 28/04/2003 & 14/12/2004, Order No. SP 1-118/Procurement procedure/ 2003-04/15 dated 14/10/2003, during purchase of the stores from M/s IL, ITI Limited, Kendriya Bhandar and private firms etc during the period 2003-04 to 2005-06 and caused loss to BSNL to the tune of Rs.49,806/- and thereby failed to maintain absolute integrity, devotion to duty and acted in a manner of unbecoming of a Public Servant and thus violated Rule 3(1), (ii) & (iii) of CCS (Conduct) Rules, 1964.”

8. The gist of the Article is that the applicant paid RST/CST @ 10% instead of 8.5%, resulting in loss to the tune of Rs.49,806/-. After complying with the prescribed procedure, such as procuring the advice of the UPSC and

giving a copy thereof to the applicant, the DA imposed the punishment of reduction of pay scale by one stage to be imposed for a period of one year, through order dated 23.09.2015.



9. The applicant availed the remedy of review and it was processed, in accordance with the prescribed procedure. One of the grounds raised by the applicant is that another officer by name, Shri Sanjeev Singhal was also issued a charge memo with similar allegations and though the Article 8, which is equivalent to the Article 3 in his case, was held partly proved, the punishment of 'Censure' was given whereas in his case, punishment of higher degree was imposed. In all fairness to the applicant, the D.A. examined the matter objectively and on finding that the Article 3 in the case of the applicant and Article 8 in case of Shri Sanjeev Singhal are similar, he modified the punishment to the one, at par with Shri Sanjeev Singhal.

10. Though the applicant made an effort to state that there are other charges against Shri Sanjeev Singhal, we are not impressed by that. This is not a case in which the applicant was able to establish that Article 3 was not



proved at all. Once the record discloses that the respondents suffered a loss to the tune of Rs.49,806/-, due to the mistake of the applicant as regards payment of RST/CST, he cannot be exonerated completely. Censure is the least punishment that can be imposed against an employee. Further, in his representation, the applicant stated that the acts attributed to him can be treated as administrative lapses. Once he has admitted that there is an administrative lapse, the consequences must ensue.

11. We do not find any merit in the OA and the same is accordingly, dismissed.

There shall be no orders as to costs.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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