

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI**

**R.A No. 33/2015  
In  
O.A No. 1756/2009**

New Delhi this the 22<sup>nd</sup> day of March, 2016

**Hon'ble Mr. Justice M. S. Sullar, Member (J)**  
**Hon'ble Mr. K. N. Shrivastava, Member (A)**

Shri Ishwer Singh Malik  
S/o Shri Ram Chander  
Working as Senior Accounts Officer (PIL),  
O/o Dy. General Manager MTNL (TR)  
K.L. Bhawan  
New Delhi-110 001  
R/o EPT 27 Sarojni Nagar,  
New Delhi-110 023  
Address for service of notices  
C/o Shri Sant Lal, Advocate, CAT Bar Room,  
New Delhi-110 001.

...Review Applicant

(By Advocate: Mr. R.K. Shukla)

Versus

1. Mahanagar Telephone Nigam Ltd.,  
Through the Chairman-cum-Managing Director,  
Corporate Office,  
12th Floor,  
Jeewan Bharati Tower,  
124 Connaught Place,  
New Delhi-110 001.
2. The General Manager (HQ),  
O/o The Chief General Manager (North),  
M.T.N.L., 9, C.G.O. Complex,  
Lodi Road,  
New Delhi-110 003.
3. The Director (HR),  
Corporate Office MTNL,  
Jeewan Bharti Towar,  
124 Connaught Place,  
New Delhi-110 001.

....Respondents

(By Advocate: Ms. Rachna Joshi Issar for MTNL)

## O R D E R (O R A L)

**Hon'ble Mr. Justice M. S. Sullar, Member (J) :**

The compectus of the facts and material exposed from the record which needs a necessary mention for the limited purpose of deciding the present Review Petition, is that initially the petitioner, Sh. Ishwar Singh Malik filed the main Original Application (OA) No.1756/2009 seeking setting aside the impugned order dated 31.03.2006 (therein) whereby the penalty of reduction of basic pay in the scale of Rs.14500-18700/- by two stages at Rs.17,300/- with cumulative effect, was imposed on him by the Disciplinary Authority.

2. The O.A was dismissed on merits vide order dated 05.05.2010 (Annexure RA-I) by this Tribunal.

3. Now, the petitioner has filed the instant Review Petition, mainly on the grounds that as per the letter dated 18.01.2006, the matter of imposing the major penalty should have been forwarded to the corporate office but in the present case Director HR imposed the penalty on the petitioner who was not competent to do so. This Tribunal has misinterpreted the pointed letter and wrongly relied upon the minutes of meeting held on 21.06.2005. It was alleged that the matter of dis-proportionate penalty was also mis construed by the Tribunal and petitioner was entitled to the lesser punishment on the basis of parity of similarly situated employee namely Sh. Wasi-ul-Islam. On the basis of aforesaid grounds the petitioner sought to review the main order of this Tribunal in the matter indicated herein above.

4. The contesting respondents refuted the allegations of the petitioner and filed the reply, inter alia, pleading certain preliminary objections to the counter of the petitioner and limitation as according to them the Review Petition was filed after a lapse of period of 4½ years. Such inordinate delay cannot be condoned. Narrating the sequence of events in detail in all the respondents

have claimed that major penalty was rightly imposed on the petitioner by the competent disciplinary authority as per the rules. It was claimed that the relevant rules were amended and Director (HR) was nominated as competent authority to impose major penalty for all the group officers of the (E-1 to E-4) category (including the petitioner) which is clear from the letter dated 18.01.2006. It will not be out of place to mention here that the contesting respondents have stoutly denied all other allegations contained in the Review Petition and prayed for its dismissal. Sequel to in pursuance of order dated 07.01.2016 of this Bench, the contesting respondents has also filed an additional affidavit clarifying the position of appointing/disciplinary authority of the applicant.

5. Controverting the allegations contained in the reply and reiterating the grounds of the Review Application, the petitioner filed the rejoinder.

6. Having heard the learned counsel for the parties, having gone through the records and after considering the entire matter, deeply to our mind there is no merit in the Review Petition.

7. As is evident from record that the indicated penalty was imposed on 31.03.2006 on the applicant by the disciplinary authority (Director HR). The main contention of the learned counsel that the Director (Finance) was the competent authority and since the impugned penalty was imposed on the petitioner by Director (HR) so, the impugned order deserve to be reviewed, is not only devoid of merit but misplaced as well. As per the additional affidavit of SDE (Vigilance) of Mahanagar Telephone Nigam Limited (MTNL) would reveal that the petitioner, a Senior Accounts Officer (Group B level Executive) was charge sheeted and punished in terms of Rule 25 of MTNL (Conduct, Discipline & Appeal) Rules, 1998 by means of memorandum dated 26.08.2004. The punishment order was passed against him on 31.03.2006. It has been

specifically mentioned in the additional affidavit that in the 205<sup>th</sup> meeting of MTNL's rule making authority i.e., the Board of Directors, held on 21.06.2005, the proposal of amendment of rule was approved to the effect that appointing authority for all Group 'B' officers (E-1 to E-4) (including the petitioner) would be the Director (HR) that means the Director (HR) was the competent authority to impose the penalty on the petitioner at the relevant time.

8. Not only that, the same very point was raised in the main O.A by the applicant which was duly considered and repelled by the Tribunal in the following manner :-

*10. We had heard both the counsel on 28.01.2010. However, counsel for the respondents had sought adjournment to take clear instructions on the point as to who was the disciplinary and appellate authority on the dates when orders were passed against the applicant. Respondents thereafter filed an additional affidavit to explain that the order dated 31.03.2006 (at page 13-14) imposing major penalty on the applicant (a Gr.'B' Officer in E-4 Grade), was passed by the competent Disciplinary Authority i.e. the Director (HR) at the Corporate Office Level in consonance with the MTNL (CDA Rules) rules (modified pursuant to the decision taken by the Board of Directors in its 205<sup>th</sup> meeting held on 21st June, 2005, which is evident from letter dated 18.01.2006 (page 113) which reads as under:-*

*"No.MTNL/CO/Dir-HR/2006  
January 18, 2006*

*The Executive Director,  
MTNL, Mumbai.*

*Sir,*

*Sub.: Appointing authority for Group 'B' Officers.*

*Ref.: Letter No.GM (V)/GM ...../2005*

*I am directed to refer to the above communication received from your predecessor regarding issue of amendment to MTNL Conduct Disciplinary Rules, consequent to the orders issued by Corporate Office and the Director (HR) as appointing authority for JAOs, and to say that in the 205<sup>th</sup> meeting held on 21st June, 2005, it was decided that the appointing authority for all posts of Office (E-1 to E-4) will be the Director-HR. However, as far as disciplinary authority is concerned, powers for inflicting minor penalties rest with the Executive Director of the units concerned and for major penalties, the cases need to be referred to Corporate Office.*

*Hence such cases be disposed of in the light of the above Boards decision. A copy of the minutes is enclosed for ready reference."*

*11. Perusal of above shows that on the date when penalty was imposed on the applicant, i.e., 31.3.2006, Director-HR was competent to*

*impose punishment on the applicant, therefore, the 1<sup>st</sup> contention of the applicant that Director-HR was not competent to impose the punishment is rejected.”*

9. Meaning thereby the Director (HR) was the disciplinary authority at the relevant time when the impugned punishment order was passed against the applicant and the contrary arguments of his learned counsel deserves to be and are hereby repelled in the present set of circumstances.

10. Sequelly the second ground/argument regarding for disproportionate punishment vis-a-vis employee Sh. Wasi-ul-Islam was duly considered and rejected by the Tribunal while deciding the main O.A.

11. Therefore, since neither there is any ambiguity in the main order of this Tribunal, nor there is any error apparent on the face of the record, which is a condition precedent to invoke the jurisdiction of review of this Tribunal, so, no ground much less cogent to entertain the review petition is made out at this belated stage i.e., after 4½ years of passing the main order by this Tribunal.

12. In the light of aforesaid reasons, as there is no merit therefore, the instant Review Petition deserves to be and is hereby dismissed as such in the obtaining circumstances of the case. However with no order as to costs.

(K. N. Shrivastava)  
Member (A)

(Justice M. S. Sullar)  
Member (J)

/Maya/