

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

**OA NO.648/2014**

Reserved on 18.02.2016  
Pronounced on 29.02.2016

**HON'BLE DR BRAHM AVTAR AGRAWAL, MEMBER (J)**  
**HON'BLE MR K.N. SHRIVASTAVA, MEMBER (A)**

P.K. Mehra, Suptd./CDPO (Retd.)  
Department of Social Welfare  
R/o Vill. & P.O. Kaganheri  
Near BSF Cantt. Chawla  
New Delhi-110 071.

...Applicant

(By Advocate: Mr. P.C. Mishra)

**VERSUS**

Union of India through

1. Secretary to Govt. of India  
Ministry of Home Affairs  
Delhi-II Division, North Block  
Central Sectt. New Delhi.
2. Secretary  
Union Public Service Commission  
Dholpur House,  
New Delhi-110 003.
3. Chief Secretary,  
Govt. of NCT Delhi  
5<sup>th</sup> Level, Delhi Secretariat,  
I.P. Estate, New Delhi.
4. Director Social Welfare  
Govt. of NCT of Delhi  
GLNS Complex, Feroz Shah Kotla,  
Delhi Gate, Delhi.

...Respondents

(By Advocate: Mr. Rajinder Nischal, Mr. Vijay Pandita, Mr. Amit Yadav for Mr. Ravinder Aggarwal)

**:ORDER:****HON'BLE DR BRAHM AVTAR AGRAWAL, MEMBER (J):**

Disciplinary proceedings were initiated against the applicant under the CCS (CCA) Rules 1965 for the following charges (vide Annexure 2):

**"ARTICLE I**

Shri P.K. Mehra, Suptd. while working as DDO/HOO in ICDS, Sultanpuri withdrew an amount of Rs.6,95,324/- from Reserve Bank of India without ensuring its actual disbursement on the same day which is in violation of provisions of Rule 11(3) and Rule 100(2) of Central Government Accounts (Receipt & Payment) Rules, 1983. This act of Sh. Mehra resulted in theft of the undisbursed cash kept in the cash chest.

**ARTICLE II**

Shri P.K. Mehra, Suptd. while working as DDO/HOO in ICDS, Sultanpuri did not sign the cash book on day to day basis as required under the rules.

**ARTICLE III**

Shri P.K. Mehra, Suptd. while working as DDO/HOO in ICDS, Sultanpuri got the cash book written from a person other than the cashier in violation of rules.

**ARTICLE IV**

Shri P.K. Mehra, Suptd. while working as DDO/HOO in ICDS, Sultanpuri did not take adequate measures for security of cash."

2. Since the applicant superannuated on 31.05.2008, the proceedings were deemed to have been continued under rule 9 of the CCS (Pension) Rules 1972 and the same culminated in imposition of the following penalty on him (vide the impugned order dated 16.07.2013 at Annexure 1):

"penalty of 20% cut in monthly pension, otherwise admissible, for a period of two years and a 10% cut in gratuity, otherwise admissible"

3. The applicant, through the instant OA, prays that the impugned order (Annexure 1) be set aside.

4. The factual backdrop relating to litigation prior to the instant OA is not germane at this stage.

5. We have heard the learned counsel for the parties, perused the pleadings as well as the rulings cited at the Bar, and given our thoughtful consideration to the matter.

6. It is well-settled by a catena of judgments that the scope of judicial review in disciplinary proceedings is limited; judicial review is not akin to adjudication on merits by re-appreciating evidence as an appellate authority; judicial review is directed against the process of making the decision and not against the decision itself and court/tribunal cannot arrive at its own independent finding. Punishment also can be interfered with only if the same shocks the conscience as to its proportionality. We may in this connection refer to the judgments of the Hon'ble Supreme Court in **Deputy Commissioner, K.V.S. Vs. J. Hussain** [2013 (12) SCALE 416] and **S.R. Tewari Vs. UOI** [2013 (7) SCALE 417].

7. We feel that the instant OA may very well be disposed of on the sole point of non-communication of the UPSC advice in advance, as is clear from the impugned order (Annexure A-1),

which indicates that the same was furnished to the applicant only along with the impugned order.

8. The Hon'ble Supreme Court in **Union of India and Others Vs. S.K. Kapoor** [2011 (3) SCALE 586] held that if UPSC report is relied upon by the disciplinary authority, then a copy thereof must be supplied in advance to the concerned employee, otherwise, there will be violation of the principles of natural justice.

9. For the above reason alone, the impugned order cannot be said to be legally sustainable.

10. The impugned order is, therefore, set aside. The applicant shall be entitled to all admissible consequential benefits. The disciplinary authority shall be free to consider the matter afresh as per law.

11. The OA is allowed in the above terms. No order as to costs.

**(K.N. Shrivastava)**  
**Member (A)**

**(Dr. Brahm Avtar Agrawal)**  
**Member (J)**

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