

**Central Administrative Tribunal
Principal Bench**

OA No.496/2017

New Delhi, this the 10th day of March, 2017

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Dr. S. Agrawal, Group 'A'
Aged 52 years, S/o Late Sh. S.N. Agarwal
R/o D-3, Type 4 Flats, MAMC Campus
New Delhi-110 002 and
Working as Director Professor
On a C.H.S. Post at GTB Hospital
Government of N.C.T. of Delhi
New Delhi-110 095.

..Applicants

(By Advocate: None)

Versus

Union of India through Secretary
Ministry of Health & Family Welfare
Department of Health & Family Welfare
Government of India
Nirman Bhawan, New Delhi-110 011.

..Respondent

(By Advocates: Shri Hanu Bhaskar and Shri Y.P. Singh)

ORDER (ORAL)

Justice Permod Kohli, Chairman :-

This OA has been filed challenging the imposition of penalty of reduction to a lower stage in the time scale of pay by one stage for a period of three years with cumulative effect. Apart from various other grounds, it is stated in para 4.28 that no opportunity was provided to the applicant to

respond to the advice of the Union Public Service Commission(UPSC) which was obtained by the respondents. From the impugned order dated 17.01.2012, we find that the advice of the UPSC has been relied upon by the respondents while imposing the penalty. With a view to ascertain whether the UPSC's advice was served on the applicant or not, Shri Bhaskar, learned counsel appearing for the respondents, was asked to seek instructions. He has reported that the UPSC advice was obtained, however, the same was not served upon the applicant. According to him, at that time, the relevant OM dated 06.01.2014 issued by the Department of Personnel and Training, was not in vogue. The aforesaid OM has been issued pursuant to the judgment dated 16.03.2011 of the Apex Court in ***Union of India and Ors. v. S.K. Kapoor, (2011) 4 SCC 589***. Vide its judgment, the Hon'ble Supreme Court has only interpreted the rules and declared the law.

2. The impugned penalty order 17.01.2012 is thus liable to be set aside on account of non furnishing of the copy of UPSC advice to the charged official.

3. This OA is accordingly allowed. The impugned penalty order dated 17.01.2012 is hereby set aside. The respondents are directed to furnish a copy of the UPSC advice to the applicant within two weeks. The applicant shall have the

liberty to file his response within four weeks thereafter. The disciplinary authority shall pass fresh reasoned and speaking order considering the response of the applicant within two months thereafter.

(K.N. Shrivastava)
Member(A)

(Justice Permod Kohli)
Chairman

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