

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No.2369/2011

New Delhi, this the 28 day of September, 2015

**Hon'ble Mr. Justice B.P. Katakey, Member (J)
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Sh. R.C. Gulati,
R/O House No. 5-A/115,
N.I.T. Faridabad, Haryana Applicant.

Applicant in person

Vs.

UOI & others Through;

1. The Secretary
Ministry of Agriculture and Cooperation
Department of Agriculture and Cooperation
Krishi Bhawan, New Delhi.
2. The Under Secretary
Ministry of Agriculture and Cooperation
Department of Agriculture and Cooperation
Krishi Bhawan, New Delhi. .. Respondents

(By Advocate: Mr. Ashish Nischal for Mr. Rajinder Nischal)
Mr. Satish Kumar for Resp.No.2

ORDER (ORAL)

By Justice Mr. B.P. Katakey, Member (J);-

The applicant, who appears in person, has filed this OA challenging the order dated 15.6.2011 issued by the Under Secretary to the Govt. of India, Ministry of Agriculture, Department of Agriculture & Cooperation, imposing penalty of withholding 20% of the monthly pension otherwise admissible to the applicant for a period of three years, in exercise of power conferred by Rule 9 (1) of the Central Civil Service (Pension)

Rules, 1972, and in consultation with the Union Public Service Commission.

2. The brief facts of the case for disposal of the present OA are that while the applicant was posted as Section Officer in the Directorate of Plant Protection, Quarantine and Storage, he was issued with a charge memorandum dated 28.1.2009 on the following article of charges:-

"That the said Shri R.C.Gulati, while functioning as Section Officer (CIR-I) in the Directorate of Plant Protection, Quarantine & Storage (PPQ&S). NH-IV, Faridabad, processed the applications for registration of Bifenthrin 2.5% manufactured by M/s United Phosphorous Limited (UPL), Vapi (Gujarat) and M/s Darrick Insecticides Limited (DIL), Wazirpur, Delhi. M/s UPL had submitted their application for issue of certificate of registration (CR) for Befenthrin 2.5 % to the Central Insecticides Board and Registration Committee (CIB&RC) under the Directorate of PPQ&S on 14.07.2006, whereas M/s DIL submitted their application for CR for the same pesticide on 25.9.2006. While the product of M/s UPL was approved for registration in 267 th Meeting of the Registration Committee (RC) held on 24.8.2006, M/s DIL's product was approved in 270 th Meeting of the RC held on 8.12.2006. Since M/s UPL had applied earlier than M/s DIL and its product was approved for registration earlier than DIL's, the CR should have been issued earlier to M/s UPL than to M/s DIL. But Shri Gulati authenticated the certificate of registration for M/s DIL on 17.1.2007 for signature of Secretary (CIB&RC) on the basis of incomplete data base before completion of authentication process of the product, whereas the certificate of registration for M/s UPL was authenticated by him on 26.02.2007 for signature of Secretary (CIB&RC).

That the said Shri Gulati, SO (CIR-I), by his above acts of omission and commissions, exhibited lack of integrity and devotion to duty and acted in his official dealings with the public adopting dilatory tactics while holding a supervisory post and thereby violated Rule 3 of CCS (Conduct) Rules, 1964."

3. The applicant on receipt of the same filed his written reply denying the charges leveled against him. During the pendency of the proceedings, the applicant, however, retired on attaining the age of superannuation on 30.04.2009. The disciplinary authority, thereafter, vide order dated 15.6.2011 imposed the aforesaid penalty. The said order was put to challenge in this OA which was earlier allowed vide order dated 3.2.2012 passed by this Tribunal by setting aside the order withholding the pension to the extent of 20 %. The said order dated 3.2.2012 passed by this Tribunal was put to challenge by the respondents herein before the Hon'ble High Court of Delhi in W.P.[C] No. 3205/2012. The Hon'ble High Court of Delhi vide its judgment dated 13.05.2013, while setting aside the order of this Tribunal restored the matter for adjudication on merits afresh by the Tribunal. Accordingly, the OA has been listed before us for hearing.

4. We have heard the applicant in person and Mr. Nischal the learned counsel for the respondents. We have also heard Mr. Satish Kumar, who claims to appear for the Ministry of Agriculture.

5. The applicant in person, referring to the nature of allegations leveled against him and also the order of penalty dated 15.6.2011, has submitted that there being no substance in the allegations leveled against him, the order of the disciplinary

proceedings needs to be interfered with. It has also been submitted that the nature of allegations are such that no misconduct can be attributed to the applicant, even if such allegations are proved. It has also been submitted that there being no allegation relating to the financial loss caused to the Government, no order withholding pension ought to have been passed. The further submission is that since the imposition of penalty of withholding 20% pension has admittedly been passed by taking into consideration the advice of the UPSC without first serving the same to him, which is mandatorily required to be furnished to the applicant for his comments, the penalty order cannot stand the scrutiny of law and needs to be set aside.

6. The learned counsel appearing for the respondents, on the other hand, has submitted that there are ample evidence on record to substantiate the charges levelled against the applicant, which were found to be proved by the Inquiry officer as per the inquiry report. It has also been submitted that after submission of the Inquiry report and also on the advice of the UPSC, the impugned penalty order was passed. Learned counsel, however, has fairly submitted that though the UPSC advice was required to be furnished to the applicant for his comments, before passing the penalty order, the same has not been done in this case.

7. We have considered the submission advanced by the learned counsel for the parties. The applicant was charged with

the allegations, which have already been reproduced above. There is absolutely no allegation of causing any pecuniary loss to the government. The alleged incident occurred in the year 2007. The charge sheet was issued almost three years thereafter. The applicant has also retired from service on attaining the age of superannuation on 30.4.2009. The disciplinary authority has passed the impugned order withholding 20% of the monthly pension for a period of three years based on the advice of UPSC. Admittedly, the advice of the UPSC has not been furnished to the applicant before passing the order of penalty, though it was mandatorily required to be served upon him for his comments.

8. In view of the above, we set aside the order dated 15.6.2011 passed by the disciplinary authority withholding 20% of monthly pension of the applicant for a period of three years and direct the disciplinary authority to consider as to whether it will now proceed, with the matter. The Disciplinary authority shall also take into account the following facts; (i) there is no allegation of any pecuniary loss or financial burden on State exchequer; (ii) allegations were levelled in the year 2007; (iii) the charge memorandum was issued in the year 2009, and (iv) the applicant has retired from service on attaining the age of superannuation on 30.4.2009. In case, it is decided not to proceed with the allegations levelled against the applicant, the amount of pension already deducted shall be released to the applicant forthwith.

9. The OA is accordingly, allowed to the extent as indicated above. No costs.

(K.N.Shrivastava)
Member (A)

/mK/

(B.P. Katakey)
Member (J)