

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

O.A.No.2389/2017

Wednesday, this the 9th day of August 2017

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

Sunder Lal Jain
Group A
Aged 64 years
Retired Superintending Engineer (Civil)
s/o Mr. Lobh Chand
r/o 4, Madhu Nursery, Sector-3
Hiran Magri, Udaipur, Rajasthan

(Mr. Ashish Nischal, Advocate)

..Applicant

Versus

Union of India through its Secretary
Ministry of Urban Development
Nirman Bhawan, New Delhi

(Mr. Hanu Bhasker, Advocate)

..Respondent

O R D E R (ORAL)

Justice Permod Kohli:

Mr. Hanu Bhasker, learned counsel for respondent was asked to seek instructions from the respondent, in view of the observations of the Tribunal, that the impugned order imposing penalty is a non-speaking order. He sought instructions. However, he is unable to say anything about the issue involved. We have heard learned counsel for the parties. Vide the impugned order, the applicant has been awarded penalty of withholding of 15% cut in his monthly pension, otherwise admissible to him, for a period of 3 years.

2. We have carefully perused the impugned order. All the paragraphs in the impugned order primarily contain references and sequence of events to the issuance of the various orders. The following two paragraphs relate to the consideration by the disciplinary authority:-

“Whereas the CO in his representation dated 27.01.2017 has not stated any new facts/ submissions that were not considered earlier by the Disciplinary Authority and by the UPSC while giving its advice.

Now therefore, the President, in acceptance of the advice rendered by the UPSC and after considering the representations of the CO and the circumstances in totality and on an objective assessment of the entire case hereby imposes the penalty of withholding of fifteen per cent (15%) of his monthly pension otherwise admissible to him for a period of (03) years, and for release of gratuity, if not otherwise required.”

3. The above paragraphs are the only paragraphs wherein the disciplinary authority has arrived at conclusion. The perusal of the above paragraphs clearly indicates that there has been total non-application of mind. No reasons or findings are recorded. Thus the impugned penalty order is totally non-speaking and is liable to be quashed on this ground alone.

4. In this view of the matter, we allow this O.A. and set aside the impugned order dated 11.04.2015 (Annexure A-1). The matter is remitted back to the disciplinary authority to pass a fresh speaking and reasoned order, keeping in view the requirements of the rules, within a period of two months from the date of receipt of a copy of this order. No order as to costs.

(K.N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

August 9, 2017
/sunil/