

**Central Administrative Tribunal  
Principal Bench  
New Delhi**

**OA No.2407/2013**

This the 7<sup>th</sup> day of September, 2016

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

P. K. Jindal S/o S. R. Jindal,  
R/o 701, Skytech Magadh Apartments,  
Sector 3, Vaishali, Ghaziabad (UP). ... Applicant

( By Advocate: Mr. S. K. Gupta )

Versus

1. Union of India through  
Secretary, Ministry of Commerce,  
Udyog Bhawan, New Delhi.
2. India Trade Promotion Organization  
(A Government of India Enterprise)  
through its Chairman-cum-Managing Director,  
Pragati Bhawan, Pragati Maidan,  
New Delhi-110001.
3. Shri S. N. Bhalla,  
Inquiring Authority,  
C/o Chairman-cum-Managing Director,  
India Trade Promotion Organization,  
Pragati Bhawan, Pragati Maidan,  
New Delhi-110001. ... Respondents

( By Advocates: Mr. Piyush Sharma )

**O R D E R**

**Justice Permod Kohli, Chairman :**

The applicant is presently serving as Deputy General Manager (Finance) in the office of respondent No.2. In the year 1994, he was

serving as Joint Manager (re-designated as Senior Manager). One A. K. Sahni, then Assistant Manager proceeded on leave for a period of 16 days, and during his absence from 29.12.1994 to 13.01.1995 the applicant was given charge of the post of Assistant Manager held by A. K. Sahni. It is stated that the applicant was over-burdened with his own official duties and he was asked to perform additional duties of Assistant Manager, which is a two level lower post. During the period 03.01.1995 to 13.01.1995, seven bills amounting to Rs.1.72 lacs for payment relating to advertisements were forwarded by the Publicity Division to the Finance Division. The applicant in his capacity as in-charge Assistant Manager sanctioned those bills. The special audit report for the year 1995-96 discovered some discrepancies. The applicant was served with a memorandum dated 08.05.1998 issued by Dy. CVO. He submitted his reply dated 20.05.1998. It is stated that during this period, the applicant was required to be considered for promotion to the post of Dy. General Manager, which was deferred by the DPC on 12.05.1998 on the ground that disciplinary action was contemplated against the applicant. A representation was submitted by the applicant on 26.11.1998 to the Chairman-cum-Managing Director regarding deferment of his promotion. The applicant was served with a charge-sheet dated 04.06.1998 with the following article of charge:

### "Article-1

Shri P. K. Jindal while working as Joint Manager now Senior Manager [Accounts] during 1995 in Accounts Division passed the bogus bills for payment relating to adhoc advertisement. As per the financial norms/rules, Shri Jindal was required to approve and pass the bills for payment only on the basis of approval of ED/CMD for release of advertisement to a publication. Similarly, he was also required to see that the original copy of the advertisement appeared in the concerned newspapers magazines, accompanied the bills passed for payment by him. However, Shri Jindal passed the bills for payment without the approval of the ED/CMD and the original copy of the advertisements, with malafide intentions. Even the advertising agencies are found non-existent. He thus, showed gross negligence and carelessness, and thus caused wrongful loss to the organization to the tune of Rs.1.72 lakhs.

By the above acts of omission and commission, Shri P. K. Jindal, exhibited conduct unbecoming of an officer of the organization and demonstrated lack of integrity and devotion to duty and thus Rule 4[1], 5[6], 5[9], 5[20], & 5[30] of ITPO Employees [Conduct, Discipline and Appeal] Rules, 1977."

2. The applicant submitted his response. The disciplinary authority appointed one S. K. Mukherjee, IAS (retd.) as inquiry officer. It is stated that the applicant was not allowed to take help of defence assistant and the inquiry proceeded in absence of defence assistant. The applicant submitted his defence brief on 06.05.1999. The inquiry officer concluded the inquiry and submitted his report dated 02.06.1999 holding the charges against the applicant to be proved. On being served with the inquiry report, the applicant submitted his representation dated 22.06.1999 to the Chairman-cum-

Managing Director, ITPO, pleading therein that his defence brief submitted on 06.05.1999 had not been considered. He further submitted a detailed reply on 20.07.1999. The disciplinary authority awarded penalty of withholding of three increments of pay with cumulative effect, vide order dated 08/09.06.2000. The appeal filed by the applicant resulted in dismissal vide order dated 03.08.2000, and further review also came to be rejected vide order dated 15.12.2000. The applicant filed a writ petition WP(C) No.6108/2001 before the High Court of Delhi challenging the penalty and claiming promotion etc. The said writ petition was later transferred to this Tribunal and re-numbered as TA No.511/2009. This TA was decided by the Tribunal vide judgment dated 02.02.2010. The inquiry report and consequential penalty orders were set aside. The Tribunal passed the following order:

“5. We also find that the applicant had made written defence brief on 06.05.1999, copy of which has been placed on record as Annexure P/8 (page 33 of the paper book), despite that the enquiry officer observed that the applicant had not submitted his written defence brief, which is factually incorrect. The impugned orders for the procedural defects, as mentioned above, do violate the principles of natural justice and, therefore, need to be set aside. Ordered accordingly. The respondents shall be at liberty to proceed against the applicant allowing him the assistance of defence assistant from the stage when he was denied the services of defence assistant. Inasmuch as, since 15 years have already gone by and we are told that the applicant has been denied promotion because of the punishment inflicted upon him, we direct the respondents to complete the

enquiry, if they decide to proceed against the applicant, within three months from the date of receipt of certified copy of this order, even if day to day proceedings are to be carried out."

A review petitioned filed by the applicant being RA No.77/2010 was rejected by the Tribunal vide order dated 11.05.2010. The orders passed by the Tribunal came to be challenged in WP(C) No.6961/2010. This writ petition was dismissed by the Hon'ble High Court of Delhi. The order of the Tribunal having attained finality, respondent No.2 appointed respondent No.3 as the inquiring authority vide communication dated 07.03.2011, and one S. Bahadur, Sr. Manager was appointed as the presenting officer. The inquiry was resumed from the stage of appointment of defence assistant. On conclusion of evidence of the department, the applicant submitted his defence brief on 11.07.2011. He projected non-supply of the documents besides taking various other defences. The inquiring authority, however, submitted its report dated 15.07.2011 to the disciplinary authority. On receiving copy of the inquiry report, the applicant submitted his representation dated 26.07.2011 pointing out various discrepancies. The disciplinary authority vide order dated 26.08.2011 awarded the punishment of withholding of two increments with cumulative effect. The statutory appeal preferred by the applicant before the Board of Directors was rejected vide order

dated 24.04.2012. The applicant has accordingly sought the following relief:

- “(i) quash and set aside the inquiry report dated 15.07.2011 (Annexure-A-1), quash the impugned order dated 26.08.2011 (Annexure-A-2) and also quash the order of Appellate Authority dated 24.04.2012 (Annexure-A-3) and award all consequential benefits including promotion of the applicant to the next higher post of Dy. General Manager (Finance & Accounts) w.e.f. the year 1998 with all consequential benefits of the promotional post;
- (ii) May also pass any further order(s), direction(s) as be deemed just and proper to met the ends of justice.”

3. The respondents in their counter affidavit have denied the allegations of the applicant. It is stated that all documents were supplied to the applicant. Copies of some of the documents which were in the custody of CBI were also provided to the applicant, as recorded by the inquiring authority in its order dated 23.03.2011. It is further stated that the applicant was given reasonable opportunity of defending the charges. The respondents have attributed serious misconduct to the applicant in awarding advertisements worth Rs.1.72 lakhs. The respondents have also stated that the case of the applicant for promotion was considered by the DPC held in the year 2005, and on account of pendency of criminal case in CBI Court, consideration of the applicant was kept in sealed cover and later after obtaining opinion of CBI, the applicant was considered for *ad hoc*

promotion to the post of Dy. General Manager (Finance & Accounts) on 22.06.2010.

4. During the course of hearing, learned counsel for the respondents has also placed on record copy of judgment dated 09.11.2015 passed by Special Judge, CBI, Karkardooma Courts, Delhi in case of *Central Bureau of Investigation versus Priya Uppal and others*. The applicant is accused No.13 in the said case. The applicant has been convicted and sentenced to rigorous imprisonment for a period of four and a half years for offences punishable u/s 120-B read with Section 420/468/471 IPC. He has been awarded further rigorous imprisonment for a period of four and a half years for commission of offence punishable u/s 420 IPC, and further sentence of four and a half years for commission of offence punishable u/s 13(2) read with Section 12 (1) (d) of Prevention of Corruption Act, and also to pay fine of Rs.4 lacs and in default of payment of fine, to further undergo rigorous imprisonment for a period of one year. This criminal case relates to the same incident for which the applicant has been awarded penalty in the departmental proceedings.

5. Mr. S. K. Gupta, learned counsel appearing for the applicant submits that the charge against the applicant has not been proved in accordance with law. No ground warranting interference in the disciplinary proceedings in exercise of powers of judicial

review is made out, nor any such ground has been urged. There has been no violation of principles of natural justice or contravention of any law warranting judicial intervention in the present case, particularly when on the basis of evidence in regard to the same incident the applicant has been convicted by the criminal court, where standard of proof is much stricter. Mr. Gupta submits that he may be granted liberty to file fresh OA in the event the applicant is acquitted of the criminal charge by the Hon'ble High Court where his appeal against the conviction is pending. We are afraid such liberty can be granted.

6. We do not find any valid ground to interfere in the order of penalty. The OA is dismissed.

( V. N. Gaur )  
Member (A)

( Justice Permod Kohli )  
Chairman

/as/