

**Central Administrative Tribunal  
Principal Bench**

**OA No.3443/2013**

**Order pronounced on : 06.12.2016**

**Hon'ble Mr. Justice M.S. Sullar, Member (J)  
Hon'ble Mr. V.N. Gaur, Member (A)**

Rajesh Kumar, Age 34 years,  
S/o Shri Nav Raj Singh,  
R/o A-156, Mansarovar Park,  
DDA Flats,  
Delhi-32.

(By Advocate : Shri Sachin Chauhan)

...applicant

**Versus**

1. AIIMS through,  
The President & Hon'ble Minister,  
Ministry of Health & Family Welfare,  
Nirman Bhawan,  
New Delhi.
2. The Director,  
AIIMS, Ansari Nagar,  
New Delhi-29.
3. The Chief Vigilance Officer,  
AIIMS,  
Ansari Nagar,  
New Delhi-29.

...respondents

(By Advocate : Shri R.K. Gupta )

**ORDER**

**Hon'ble Mr. V.N.Gaur, Member (A) :-**

The applicant, a former UDC of All India Institute of Medical Sciences (AIIMS) was proceeded against vide Memorandum dated 14.02.2011 on the following articles of charge :-

“That the said Shri Rajesh Kumar while working as UDC in the Budget Section of the Institute has acted as an instrument in embezzlement of an amount of Rs.1,75,000/- (Rupees one lakhs seventy five thousands only) fraudulently in connivance with Shri Rajesh Rastogi, EX-LDC of Pension Cell by manipulating the case of payment of pensionary benefits in respect of Late Shri Om Prakash, Lab. Technician, C.N. Centre, received the payment of Rs.1,75,000/- vide Cheque No.762108 dated 1.4.2008 and deposited in his account A/C No.10874746607. This act of Rajesh Kumar is in violation of CCS (Conduct) Rules, 1964 and he is responsible for gross misconduct on his part.

Shri Rajesh Kumar, UDC, is thus responsible for gross misconduct, failed to maintain devotion to duty, absolute integrity and has acted in a manner unbecoming of employees of the Institute thereby contravening Rule 3(1)(i)(ii) & (iii) of the CCS (Conduct) Rules, 1964, which is applicable to the employees of the Institute.”

2. Following the denial of charge by the applicant, a departmental enquiry was conducted and the report was submitted to the Disciplinary Authority on 31.01.2012, in which the charge against the applicant was proved. The Disciplinary Authority supplied a copy of the inquiry report to the applicant vide Memorandum dated 10.03.2012 for making representation. The applicant submitted his representation on 05.04.2012 and thereafter the Disciplinary Authority decided to impose the penalty of “removal from service which shall originally not be a disqualification for future employment under the Government”, vide order dated 06.03.2013. The appeal dated 17.05.2013

submitted by the applicant was also rejected by the Appellate Authority on 20.06.2013.

3. During his submissions, the learned counsel for applicant took us through the defence statement submitted by the applicant to the Inquiry Officer and the representation submitted to the Disciplinary Authority after receiving a copy of the report of the Inquiry Officer. It was argued that both the Inquiry Officer and the Disciplinary Authority did not deal with contentions raised by the applicant in his representation. Relying on several judgments of the Hon'ble Supreme Court, learned counsel stated that in his order Disciplinary Authority was obligated to deal with various grounds that were raised in the representation of the applicant. He also referred to the appeal of the applicant in which he had again raised substantive issues challenging the order of the Disciplinary Authority. The Appellate Authority, also, by order dated 20.06.2013 summarily rejected the appeal. According to the learned counsel, the impugned orders are, therefore, bad in law and needed to be quashed.

4. Heard the learned counsel for the parties. Without going into the merits of the case, we observe that the applicant had submitted a detailed representation on the report of the Inquiry Officer on 05.04.2012 in which substantive issues like non supply of documents required for his defence; lack of sufficient evidence to

prove the charges; many contradictions in the inquiry report; discrimination etc., had been raised. The Disciplinary Authority has, however, the following to say in the order dated 06.03.2011 on the various contentions of the applicant :-

“The representation dated 5.4.2012, submitted subsequently by Shri Rajesh Kumar has no weightage to rebut the charges. The Inquiry was found to be held properly in accordance with the prescribed rules and therefore, the competent authority decided to accept the findings of the Inquiry Officer.”

5. In the statutory appeal, against the order of punishment passed by the Disciplinary Authority the applicant again raised a number of grounds. The Appellate Authority while rejecting the appeal stated the following by way of consideration of those grounds:-

“NOW THEREFORE, the appeal of Shri Rajesh Kumar, Ex-UDC along with all relevant facts/circumstances of the case has been placed before the President, AIIMS being Appellate Authority for consideration. The President, AIIMS after having gone through all relevant facts of the case and all relevant documents on record has found that no new grounds/facts have been raised in the instant appeal and that the formal enquiry was duly conducted as per prescribed procedure of CCS (CCA) Rules, 1965 and in view of this, the President, AIIMS finds no justification in the instant appeal and accordingly, the appeal of Shri Rajesh Kumar, Ex-UDC against order dated 6.3.2013 regarding imposition of penalty of “Removal from service which shall not be a disqualification for future employment under the Government”, is rejected.”

(emphasis supplied)

6. The law is well settled that the authorities while functioning as Disciplinary and Appellate Authorities are discharging quasi-judicial functions and expected to pass any order by indicating the reasons and rationale behind the view taken by them.

7. In ***Roop Singh Negi Vs. Punjab National Bank and Others***

2009 (2) SCC 570, Hon'ble Supreme Court ruled as under:-

“23. Furthermore, the order of the disciplinary authority as also the appellate authority are not supported by any reason. As the orders passed by them have severe civil consequences, appropriate reasons should have been assigned. If the enquiry officer had relied upon the confession made by the appellant, there was no reason as to why the order of discharge passed by the Criminal Court on the basis of self-same evidence should not have been taken into consideration. The materials brought on record pointing out the guilt are required to be proved. A decision must be arrived at on some evidence, which is legally admissible. The provisions of the Evidence Act may not be applicable in a departmental proceeding but the principles of natural justice are. As the report of the Enquiry Officer was based on merely ipse dixit as also surmises and conjectures, the same could not have been sustained. The inferences drawn by the Enquiry Officer apparently were not supported by any evidence. Suspicion, as is well known, however high may be, can under no circumstances be held to be a substitute for legal proof”.

(emphasis supplied)

8. In ***M/s Kranti Associates Pvt. Ltd. & Anr. Vs. Masood Ahmed Khan & Ors.*** [SLP (Civil) No.20428/2007] the Hon'ble Supreme Court took a view that giving reasons have virtually

become an indispensable component of the decision making process. Hence, recording of reasons in support of each order of a quasi judicial authority or even an administrative authority must be insisted upon as it is meant to serve the wider principle of natural justice and that justice should not only be done, it should also appear to be done as well.

9. In view of the legal position as stated, in our view orders passed by the Disciplinary and Appellate Authorities dated 06.03.2013 and 20.06.2013 cannot be sustained. These orders are, accordingly, quashed. The matter is remanded back to the Disciplinary Authority to pass a fresh order within a period of eight weeks after taking into account the grounds raised by the applicant in his representation dated 05.04.2012, in accordance with law. The applicant will be reinstated forthwith; however, the respondents shall decide about the consequential benefits of the applicant after passing, and taking into account the view taken in the aforementioned order. Needless to say that the applicant will be at liberty to challenge the order of the Disciplinary Authority in accordance with law, if he is not satisfied with the same. No costs.

( V. N. Gaur )  
Member (A)

( Justice M.S. Sullar )  
Member (J)

6<sup>th</sup> December, 2016

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