

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

**OA NO.4425/2013**

Reserved on 16.02.2016  
Pronounced on 29.02.2016

**HON'BLE DR BRAHM AVTAR AGRAWAL, MEMBER (J)**  
**HON'BLE MR. K.N. SHRIVASTAVA, MEMBER (A)**

Smt. B. Pal Chowdhury  
Deputy Director  
Song & Drama Division  
Regional Office, Kolkatta.

...Applicant

(By Advocate: Mr. Padma Kumar S.)

**VERSUS**

Union of India through  
The Secretary  
Ministry of Information & Broadcasting  
'A' Wing, Shastri Bhawan  
New Delhi.

...Respondent

(By Advocate: Mr. S.M. Arif)

**:ORDER:**

**BY HON'BLE DR BRAHM AVTAR AGRAWAL, MEMBER (J):**

The applicant suffered disciplinary proceedings under rule 14 of the CCS (CCA) Rules 1965 on the following charge (vide Annexure A-2):

".....while working Deputy Director in Song & Drama Division (S&DD), Ministry of Information & Broadcasting, Regional Office, Kolkata, Smt. P. Bal Chowdhury sent call letter to Shri Bhupendra Sing who was ineligible for appointment to the post of Stage Assistant at S&DD, Bhubaneswar. By doing so, she

contravened Rule 3 (1) (i), 3 (1) (ii) and 3 (1) (iii) of Conduct Rules, 1964.”

2. The disciplinary proceedings culminated in imposition of the penalty of “reduction to a lower stage in the time scale of pay by two stages for a period of two years with further directions that she will not earn increments of pay during the period of such reduction and on expiry of such period, the reduction will have the effect of postponing the future increments of her pay” on the applicant, vide the impugned order dated 30.10.2013 (Annexure A-1).

3. The applicant, through the instant OA, prays that the impugned order (Annexure A-1) be set aside and that the respondent be directed to grant her all consequential benefits.

4. The factual backdrop that prior to the instant OA, the applicant had filed two OAs (Nos. 4656/2011 and 719/2013) and a CP (No.476/2012 in OA No.4656/2011) and the respondent an MA (No.544/2013 in OA No.4656/2011) is not germane at this stage.

5. We have heard the learned counsel for the parties, perused the pleadings as well as the rulings cited at the Bar, and given our thoughtful consideration to the matter.

6. It is well-settled by a catena of judgments that the scope of judicial review in disciplinary proceedings is limited; judicial review is not akin to adjudication on merits by re-appreciating

evidence as an appellate authority; judicial review is directed against the process of making the decision and not against the decision itself and court/tribunal cannot arrive at its own independent finding. Punishment also can be interfered with only if the same shocks the conscience as to its proportionality. We may in this connection refer to the judgments of the Hon'ble Supreme Court in **Deputy Commissioner, K.V.S. Vs. J. Hussain** [2013 (12) SCALE 416] and **S.R. Tewari Vs. UOI** [2013 (7) SCALE 417].

7. We feel that the instant OA may very well be disposed of on the sole point of non-communication of the UPSC advice in advance, as is clear from the impugned order (Annexure A-1), which states that the same was given to the applicant only along with the impugned order.

8. The Hon'ble Supreme Court in **Union of India and Others Vs. S.K. Kapoor** [2011 (3) SCALE 586] held that if UPSC report is relied upon by the disciplinary authority, then a copy thereof must be supplied in advance to the concerned employee, otherwise, there will be violation of the principles of natural justice.

9. For the above reason alone, the impugned order cannot be said to be legally sustainable.

10. The impugned order is, therefore, set aside. The applicant shall be entitled to all admissible consequential benefits. The disciplinary authority shall be free to consider the matter afresh as per law.

11. The OA is allowed in the above terms. No order as to costs.

**(K.N. Shrivastava)**  
**Member (A)**

**(Dr. Brahm Avtar Agrawal)**  
**Member (J)**

/jk/