

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

O.A. No.4172/2013

Wednesday, this the 17th day of September 2018

**Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)**

Shir D.P. Gupta,
S/o Late Shri Jagan Nath,
R/o 1132 A/76, Deva Ram Park,
Tri Nagar, Delhi-35
Retired on superannuation w.e.f. 30.4.2010
(A/N) as AO(MR) CL-2849 from MTNL
O/o GM (Admn.)

- Applicant

(By Advocate: Mr. Mata Din)

Versus

1. The Executive Director,
Mahanagar Telephone Nigam Ltd.
Khurshid Lal Bhavan, New Delhi-50
2. GM (Admn.)
Disciplinary Authority
Mahanagar Telephone Nigam Ltd.
Khurshid Lal Bhavan, New Delhi-50

- Respondents

(Mr. Jasbir Bidhuri, Advocate)

O R D E R (ORAL)

Ms. Nita Chowdhury:

This Original Application (OA) has been filed by the applicant seeking the following reliefs:-

“(a) Quash the order dated 6.11.2013 passed by GM (A) as Disciplinary Authority under Minor penalty proceedings initiated vide Charge-sheet dated 28.1.2010, imposing the penalty of recovery of Rs.5,47,800.00 & subsequently adjusted the same, from the recovery already made from retiral dues,

without holding the formal enquiry/full-fledged enquiry.

- (b) Direct the Respondent No.1 to issue directions to their officers i.e. GM(F)/AO(Cash) for refunding the amount of Rs.5,47,800.00 as recovered from Gratuity with interest.
- (c) Directing the respondents, not to proceed further as per their own rules, prescribed under Rule-37, of MTNL, Conduct, Discipline and Appeal Rules, 1998, against the Applicant who retired on superannuation w.e.f. 30.4.2010 (A/N).

Any other relief(s) which this Hon'ble Tribunal may deem fit and proper in the peculiar circumstances may also be granted.”

2. When this matter is taken up for hearing, learned counsel for the respondents fairly points out that this applicant had earlier filed an OA No.1689/2011 which was disposed of by this Tribunal on 24.01.2012 with the following directions:-

“6.However, liberty is given to the respondents to proceed in the matter in accordance with law, if so advised from the stage of providing him copy of the vigilance enquiry report. It goes without saying that in case applicant gives a representation for holding an enquiry or permission to lead evidence in order to defend himself, the same would be considered by the authorities in accordance with rules.”

3. Learned counsel for the respondents points out that in compliance with the above directions, the proceedings have been concluded and a minor penalty imposed. The representation given by the applicant, as per aforesaid order of this Tribunal, has also been considered by the disciplinary authority vide its order dated 06.11.2013. After passing of the said order, learned

counsel for the respondents states that it is always open to the applicant to challenge the same as per rules and also to file an appeal for setting aside the same before the appellate authority. Instead of this, the applicant has rushed to the Tribunal without availing of the departmental remedy.

4. In view of the above facts and circumstances, we direct the applicant to submit his appeal, if he is so advised, to the appellate authority, within a period of 30 days from the date of receipt of copy of this order. The appellate authority is also directed to dispose of such appeal within six weeks thereafter. With these directions, nothing remains to be decided in this OA and the same is hereby disposed of. No order as to costs.

(S. N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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