

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 450//2013

New Delhi this the 20th day of November, 2018

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

Shri Subhash Chandra Verma,
Age-56 years,
D-703, Padmavati Nagar,
Dumping Road, Mulund (West),
Mumbai-400080.

... Applicant

(By Advocate: Mr. Sachin Chauhan)

VERSUS

1. Union of India,
Through the Secretary,
Ministry of Communication & IT,
Sanchar Bhawan,
20, Ashoka Road, New Delhi-110 001
2. UPSC
Through the Chairman,
Union Public Service Commission,
Shahjahan Road, Dholpur House,
New Delhi-110069
3. The Desk Officer (Vig.II),
Govt. of India,
Ministry of Communications & Information
Technology,
Department of Telecommunications,
915, Sanchar Bhawan, 20 Ashoka Road,
New Delhi-110001.
4. The Under Secretary
To the Govt. of India,
Ministry of Communications & Information
Technology,
Department of Telecommunication,
1009, Sanchar Bhawan, 20- Ashoka Road,
New Delhi- 110001.
5. The Deputy Secretary
To the Govt. of India,
Ministry of Communications & Information
Technology,

Department of Telecommunication,
Sanchar Bhawan, 20- Ashoka Road,
New Delhi- 110001.

6. Sh. G.V.R.S. Kumar,
General Manager (S&M) WS &
Enquiry Officer,
O/O the Vigilance Officer, 2nd Floor,
Curry Road Tele Exchange,
Datta Mandir Road, Curry Road,
Mumbai-12.

.... Respondents

(By Advocate: Mr. B.L. Wanchoo)

ORDER (ORAL)

Hon'ble Mr. S.N. Terdal, Member (J):

We have heard Mr. Sachin Chauhan, counsel for applicant and Mr. B.L.Wanchoo, counsel for respondents, perused the pleadings and all the documents produced by the parties.

2. In OA, the applicant has prayed for the following reliefs:

- "i) To quash & set-aside the order dated 6.3.12 whereby the major penalty of 'Compulsory Retirement' with immediate effect has been imposed upon the applicant annexed at A-2, CVC advice dated 16.10.09 at A-2A, UPSC advice dated 9.2.12 annexed at A-3 and order dated 19.11.12 whereby the review petition of applicant has been rejected annexed at A-4 and to further direct the respondent that applicant be reinstated back in service forthwith with all consequential benefits including continuity in service, seniority and promotion and pay & allowance.
 - ii) To quash and set aside the finding of E.O
 - iii) To quash and set aside the memorandum dated 12.7.06.
- OR/and
- iv) Any other relief which this Hon'ble Court deems fit and proper may also awarded to the applicant."

3. The relevant facts of the case are that vide memorandum dated 12.07.2006 a departmental enquiry was initiated against the applicant for demanding and accepting illegal gratification of Rs.24,000/- on

22.07.2003 when he was DGM (Electrical), MTNL, Mumbai from Shri Mohammed Shamin Khan of M/s Daanish Sales Corporation, Mumbai to regularize the extra work done etc. The article of charge is extracted below:

"That Shri S.C.Verma, was working as DGM (Electrical), Mahanagar Telephone Nigam Limited, Mumbai during the period from 01.08.1997 to 22.07.2003. He while working as above committed gross misconduct by demanding and accepting illegal gratification of Rs.24000/- on 22.07.2003 from Shri Mohammed Shamin Khan of M/s Daanish Sales Corporation, Mumbai to regularize the extra work done and percentage for the payment received by him for electric contracts carried out by his firm.

Thus, by his above acts, the said Shri S.C. Verma committed grave misconduct, failed to maintain absolute integrity and devotion to duty, and acted in a manner unbecoming of a Government servant, thereby contravening Rule 3 (1)(i),(ii) and (iii) of the CCS (Conduct) Rules, 1964."

4. Along with the article of charge, the statement of imputation of misconduct, list of documents and list of witnesses were furnished to the applicant. Thereafter departmental enquiry was held as he denied the charges. The Inquiry Officer after holding the departmental enquiry as per relevant procedural rule and principles of natural justice, submitted his report on 14.05.2009 holding that the charges were proved. The case was referred to CVC for their second stage advice. The advice of the CVC was furnished to the applicant. While submitting representation against the advice of the CVC, the applicant submitted the acquittal order of Special Judge CBI in case No. 22 of 2004 dated 29.10.2009 regarding the same set of facts. The matter was again referred to CVC which advised imposition of major penalty of the applicant. When the case was referred to UPSC seeking their advice, the UPSC tendered their advice holding that the demanded bribe was established as such imposition of penalty is required as it is a grave

misconduct. On the basis of the above material the disciplinary authority, namely, the President of India imposed the penalty of compulsory retirement with immediate effect vide order dated 06.03.2012.

5. The counsel for the applicant vehemently and strenuously submitted amongst others that the UPSC advice was not provided to him before passing the impugned order dated 06.03.2012.

6. The counsel for the respondents equally vehemently submitted that furnishing of the UPSC advice is not mandatory. But, however, in view of the law laid down by the Hon'ble Supreme Court in the case of **Union of India and Ors Vs. S.K.Kapoor** furnishing a copy of the UPSC advice to the delinquent employee is mandatory, otherwise there will be violation of principles of natural justice.

7. Accordingly, the OA is allowed. The impugned order dated 06.03.2012 is set aside. The respondents are at liberty to proceed ahead with the departmental proceedings after serving a copy of UPSC advice on the applicant and providing him an opportunity to file representation with respect to UPSC advice. No order as to costs.

(S.N.Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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