

(1)

Central Administrative Tribunal, Principal Bench, New Delhi

O.A.No.2577/2003

**Hon'ble Mr.Justice V.S. Aggarwal, Chairman
Hon'ble Mr.S.K. Naik, Member(A)**

New Delhi, this the 15th day of October, 2004

**Shri Suninder Verma,
S/o Shri H.P. Saxena,
Aged 68 years,
H.No.58, Pocket No.G-21,
Sector-7, Rohini,
Delhi**

....Applicant

(By Advocate: Shri S.P. Chadha)

Versus

1. **Govt of N.C.T. of Delhi,
Through Chief Secretary,
Delhi Sachivalaya, Vikas Marg.
New Delhi**
2. **The Director,
Social Welfare,
Govt of N.C.T. of Delhi,
Vikas Marg, New Delhi**
3. **Commissioner (Sales Tax),
N.C.T. of Delhi,
K.G. Marg.
New Delhi**
4. **Secretary to the Govt of India.
Ministry of Home Affairs,
(Through Director CPS)
North Block, New Delhi**Respondents

(By Advocate: Shri Vijay Pandita, for respondents 1-3
Sh. Rajeev Bansal, proxy for Sh. B.K. Aggarwal, for respondent 4)

Order(Oral)

Justice V.S. Aggarwal, Chairman

The applicant was working in the Sales Tax Department. He was charge-sheeted just three days before his retirement on 31.7.1992. The enquiry report was forwarded to the Ministry of Home Affairs keeping in view the provisions of CCS(Pension) Rules.



2. Vide the impugned order, the President imposed a penalty of 5% cut in the monthly pension of the applicant for a period of five years. It was further directed that entire amount of gratuity is to be released to the applicant.

3. During the course of submissions, learned counsel for the applicant contended that the Union Public Service Commission (UPSC) had been consulted but before the impugned order, the report was not made available to the applicant and thus he was prevented from making an effective representation in this regard.

4. The record reveals that the recommendations of the UPSC were only forwarded along with the impugned order and not before that.

5. The law requires that a reasonable opportunity has to be given to the delinquent. Grant of reasonable opportunity is mandatory before any such order imposing a penalty can be passed.

6. This question had been considered by the Supreme Court in the case of State Bank of India Vs. D.C. Aggarwal, (1991) 1 SCC 13 and the Supreme Court held that the report of the recommendatory body should be made available before the final order is passed.

7. The latest pronouncement by the Supreme Court is in the matter of S.N. Narula Vs. Union of India and Others (Civil Appeal No.642/2004) decided on 30.1.2004. The Principal Bench of the Central Administrative Tribunal had quashed the impugned order. The Delhi High Court had set aside the said order. The Supreme Court upheld the order of this Tribunal and set aside the orders of the Delhi High Court holding:

"It is submitted by the counsel for the appellant that the report of the Union Public Service Commission was not communicated to the appellant before the final order was passed. Therefore, the appellant was unable to make an effective representation before the disciplinary authority as regards the punishment imposed. We find that the stand taken by the Central Administrative Tribunal was correct and the High Court was not justified in interfering with the order."



8. The decision of the Supreme Court referred to above binds this Tribunal.

Resultantly the impugned order cannot be sustained.

9. For these reasons, we quash the impugned order and direct –

- a) that since the recommendations of the UPSC have been made available, the applicant may make a proper representation within four weeks from today;
- b) thereafter the appropriate authority may pass an order in accordance with law; and
- c) nothing said herein should be taken as an expression of opinion on the other pleas raised by the applicant.

SK Naik

(S.K. Naik)
Member(A)

V.S. Aggarwal

(V.S. Aggarwal)
Chairman

/dkm/