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Central Administrative Tribunal  
Principal Bench

OA No.2982/2003

New Delhi this the 10th day of December, 2003

Hon'ble Shri V.K. Majotra, Vice-Chairman (A)  
Hon'ble Shri Bharat Bhushan, Member (J)

Shri Virender Kumar Dhall  
S/O, Shri Om Prakash Dhall  
R/o House No. 119, Pocket G-27,  
Sector-3, Rohini  
Delhi.

-Applicant

(By Advocate: Shri Tanveer Ahmed Mir)

Versus

1. Union Public Service~ Commission  
through its Secretary,  
Shahjahan Road, New Delhi.
2. Shri M.P. Singh (Inquiry Officer)  
through Secretary U.P.S.C.  
Dholpur House  
New Delhi.

-Respondents

ORDER (Oral)

Hon'ble Shri V.K. Majotra, Vice-Chairman (A)

Learned counsel heard.

2. Applicant has assailed Annexure-A dated 3.12.2003 whereby the competent authority has rejected the request of the applicant dated 29.10.2003 for allowing an advocate as his Defence Assistant in disciplinary proceedings against him. Learned counsel drew our attention to the provisions of Rule-14 (8) (a) of CCS (CCA) Rules, 1965, which are as follows:-

"(8) (a) The Government servant may take the assistance of any other Government servant posted in any office either at his headquarters or at the place where the inquiry is held, to present the case on his behalf, but may not engage a legal practitioner for the purpose, unless the presenting officer appointed by the

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disciplinary authority is a legal practitioner, or the disciplinary authority having regard to the circumstances of the case, so permits:

Provided that the Government servant may take the assistance of any other Government servant posted at any other station, if the inquiring authority having regard to the circumstances of the case, and for reasons to be recorded in writing so permits".

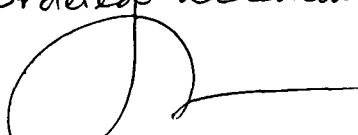
3. He admitted that the first condition when the delinquent has to be allowed assistance of a legal practitioner, i.e., Presenting Officer appointed by the disciplinary authority should be a legal practitioner, *is* <sup>*h*</sup> not met <sup>*h*</sup> in the present case. However, the second condition that the disciplinary authority having regard to the circumstances of the case should have permitted the applicant to engage a legal practitioner as his defence assistant, has not been taken into account while issuing the impugned orders by the disciplinary authority. Learned counsel stated that applicant has been charged under Sections 409, 420, 468 and 471 of Indian Penal Code in FIR No.165 of 1995 dated 20.6.1995, Police Station Parliament Street, New Delhi. He contended that the offences and circumstances alleged against the applicant for bringing him within the fold of the provisions of law, as stated above, should have been considered by the disciplinary authority for allowing the applicant to engage a legal practitioner as his defence assistant. However, it was not done and applicant's request was rejected on other ground than this.

*h*

4. Admittedly, the Presenting Officer in this case is not a legal practitioner. The impugned order (Annexure-A) has been passed by the disciplinary authority, i.e., Secretary, UPSC rejecting applicant's request for nomination of an advocate as his legal assistant. This order, prima-facie, does not indicate whether circumstances of the case as stated by the learned counsel of the applicant that the applicant has been charged under Section 409, 420, 468 and 471 of IPC have been taken into consideration while issuing Annexure-A.

5. In this backdrop, in our considered view, it would be in the interest of justice to direct respondent No.1, UPSC through its Secretary to reconsider applicant's request for nominating an advocate as his defence assistant in the disciplinary proceedings against him in the light of the observations made above by passing a detailed speaking order within a period of one month from the date of communication of these orders and till then further proceedings in the enquiry shall remain in abeyance.

*Ordered accordingly. H*

  
(Bharat Bhushan)  
Member (J)

  
(V.K. Majotra)  
Vice-Chairman (A)

cc.