

(2019) 09 CAT CK 0053

In the Central Administrative Tribunal

Case No : Original Application No. 2016 Of 2017

Devendra Kumar

APPELLANT

Vs

Delhi Police And Ors

RESPONDENT

Date of Decision : 17-09-2019

Acts Referred:

Constitution Of India, 1950 — Article 226, 323(A), 227

Citation : (2019) 09 CAT CK 0053

Hon'ble Judges : Nita Chowdhury, Member (A)

Bench : Single Bench

Advocate : S.C. Sagar, G.D. Chawla, Harvinder Oberoi

Final Decision : Dismissed

Judgement

Heard learned counsel for the parties.

2. In the instant OA, the applicant is seeking the following reliefs:-

"i) set aside the impugned Show Cause Notice dated 18.3.2016 issued by Disciplinary Authority/DCP, 3rd Bn. DAP, Vikaspuri, New Delhi (Annexure-A);

ii) set aside the impugned order dated 3.6.2016 passed by Disciplinary Authority/DCP, 3rd Bn. DAP, Vikaspuri, New Delhi (Annexure A-2);

iii) set aside the impugned order dated 9.3.2017 passed by Appellate Authority/Jt. Commissioner of Police, Armed Police, Delhi (Annexure A-3);

iv) pass any order/relief/direction(s) may deem fit and proper in the interest of justice in favour of the applicant."

3. The relevant facts of the case are that applicant while working as Inspector in Delhi Police was issued a Show Cause Notice for censure dated 18.3.2016 on the following allegation:-

"On 08.02.2016, Const. Neeraj Kumar No. 2363/DAP has submitted complaint against Inspr. Devender Kumar No. D-921 (I/C Lock-up). In this context, an

enquiry was got conducted by ACP/HQ./3rd Bn. DAP, which revealed that on 02.02.2016, the escort guard staff alongwith UTP Abhishek Verma reached at OD Lock-up for production at 10.14 AM. Then UTP Abhishek Verma entered in the office of I/C OD Lock-up alongwith bag at 10.15 AM and came out from office at 10.30 AM i.e. after a period of 15 minutes and left for court production with Escort staff. The UTP was supposed to be lodged in the Kharja at the Lock-up but UTP Abhishek verma was not lodged in Kharga of OD Lock-up. After production, said UTP returned to the Lock-up at 12.04 PM. Further at 01.33 PM, UTP Abhishek Verma again entered to the office of I/C OD Lock-up and came out at 01.46 PM after a period of about 16 minutes. UTP Abhishek Verma had spent almost 31 minutes on two spells with Inspr. Devender Kumar No. D-921 (I/C OD Lock-up) in his office room. The conduct of Inspector Devender Kumar No.D-921 (IC OD Lock-up) is highly unprofessional and suspicious. He has not only provided undue facility to the UTP but also misused the official power, which is serious lapse on his part. The above act on the part of Inspr. Devender Kumar No.D-921 amounts to gross misconduct, negligence & dereliction in the discharge of his official duties.

Therefore, Inspr. Devender Kumar No. D-921 (PIS No. 16920066) is hereby called upon to Show Cause as to why his conduct should not be censured for the above lapse. His reply, if any, should reach the undersigned within 15 days from the date of receipt of this notice, failing which it will be presumed that he has nothing to say in his defence and the notice will be decided ex-parte, on merits."

4. The applicant submitted his reply to the said Show Cause Notice. After considering the reply submitted by the applicant to the said Show Cause Notice, the disciplinary authority imposed a penalty of ?Censure? upon the applicant vide order dated 3.6.2016 (Annexure A-1). The relevant portion of the said order is reproduced below:-

"In response to Show Cause Notice, Inspr. Devender Kumar No. D-921 has submitted his written reply. I have carefully gone through the written reply submitted by him and also heard him in OR on 3.6.2016. In his reply he mainly pleaded that UTP Abhishek Verma always use to carry an office bag on all court dates and retain that bag with him during production. On 02.02.2016 at 10.50 AM he entered in his office alongwith bag with the direction of I/C Jail Ven HC Om Prakash No.2095/DAP and he did not call him. He also pleaded that as per the statement of HC Om Prakash I/C Jail van and CCTV footage evident that home-made food bag was brought at Lock-up at 12.39 PM from outside and the same was consumed by the UTP in the changing room which is adjacent to Mulakat Room in the presence and supervision of I/C Jail Van HC Om Prakash. He also pleaded that being I/C Lock-up, is his primary duty to hear the problems of UTPs and redress their problem.

I disagree with the written and verbal deposition of the Inspector, as the UTP spent almost 31 minutes in his office room in two spells. During enquiry it has been established that on 08.02.2016, the escort guard staff alongwith UTP

Abhishek Verma with his bag reached at OD Lock-up at 10.14 AM and the UTP entered in the office room of the I/C OD Lock-up alongwith his bag at 10.15 AM and came out at 10.30 AM i.e. after a period of 15 minutes and left for court production with escort guard staff. The UTP was supposed to be lodged in the Kharja of the Lock-up but he was not lodged. After production, the said UTP returned to the Lock-up at 12.04 PM and again entered in office room of I/C OD Lock-up at 01.33 PM and came out at 01.46 PM i.e. after a period of about 16 minutes. UTP Abhishek Verma had spent almost 31 minutes on two spells with the delinquent Inspector in his office room. During OR, the delinquent Inspector has also accepts his mistake.

The conduct of Inspector is highly unprofessional/suspicious and his malafide intent cannot be ruled out. He has misused his official powers, which is a serious lapse on his part and the same is totally intolerable. Therefore, the undersigned left with no other option except to confirm the proposed Show Cause Notice for Censure issued to him. Hence, the conduct of Inspr. Devender Kumar No. D-921 is hereby censured for his above said lapse.

Let a copy of this order be given to Inspr. Devender Kumar No.D-921 free of cost. He can file an appeal against this order to the Addl. Commissioner of Police, Armed Police, Delhi within 30 days from the date of receipt of a copy of this order on a non judicial stamp paper valued Rs.0.75 by enclosing a copy of this order, if he so desires."

5. The Applicant preferred an appeal. The appellate authority after considering his appeal rejected the same vide order dated 9.3.2017. The relevant portion of the appellate authority is extracted below:

"I have carefully gone through the appeal, impugned order dated 03.06.2016 and all the relevant material available on the record. I have also heard the appellant in the Orderly Room on 10.02.2017. During the O.R., he has reiterated the pleas already raised in his appeal, which are devoid of merit. As per enquiry report of ACP/HQ/3r Bn. DAP, it has been established that on 08.02.2016, the escort guard staff alongwith UTP Abhishek Verma with his bag reached at OD Lock-up at 10.13 AM and the UTP entered in the office room of the appellant alongwith his bag at 10.14 AM and the UTP entered in the office room of the appellant alongwith his bag at 10.15 AM and came out at 10.30 AM i.e. after a period of 15 minutes and left for court production with escort guard staff. The UTP was supposed to be lodged in the Kharja of the Lock-up but he was not lodged. After production, the said UTP returned to the Lock-up at 12.04 PM and again entered in office room of I/C OD Lock-up at 01.33 PM and came out at 01.46 PM i.e. after a period of about 16 minutes. UTP Abhishek Verma had spent almost 31 minutes on two spells with the delinquent Inspector in his office room. During the OR of the disciplinary authority, the appellant has accepts his mistake. But the malafide intent cannot be ruled out because he had met with the UTP twice in a day. He has misused his official's power, which is a serious lapse on his part. Further on perusal of all the record available on the file there is

nothing on record that the appellant has reflected the incident in D.D. entry etc. The appellant is not supposed to entertain the UTP in his office chamber. If there was any reason to do so, he should have recorded it through D.D. entry or by any other means. In view of the above facts and circumstances of the case, I do not find any reason to interfere with the orders of the disciplinary authority. Hence, the appeal is rejected."

6. Learned counsel for the applicant vehemently submitted that the impugned orders dated 18.3.2016, 3.6.2016 and 9. 3.2017 are illegal, arbitrary, unjustified, unreasonable, as both the authorities did not consider the material relating to the fact that the said UTP Abhishek Verma and his wife UTP Anca Maria Verma were under the protection of Court's orders for getting the home food, carrying handbags containing books and documents and provide high security to them as directed vide orders dated 29.10.2007, 18.2.2008, 20.3.2008, 5.10.2012 and 16.6.2014.

6.1 Counsel further emphasized that the Court in various orders directed the respondent no.3 to provide home food to UTP Abhishek Verma and his wife Anca Maria Verma. Counsel for the applicant also submitted that there was complaint dated 27.1.2016 given by UTP Abhishek Verma and as well, his advocate on behalf of his wife Anca Maria Verma against other UTP Pooja as she attacked on the behest of Ex. MP Jagdish Tytler and entire incident occurred on 26.1.2016 in Jail, which was captured by CCTV Footage and upon enquiry on the said complaint, a letter was written by DCP 3rd Bn. DAP directing that UTP Anca Maria Verma along with other UTP Pooja or any other female UTP should not be produced together in the Court to ensure her safety and threat perception.

6.2 Counsel also submitted that in view of the aforesaid orders of the Court and the letters written by the higher authorities of Jail and CBI, both UTPs Abhishek Verma and his wife Anca Maria Verma were under the high security safety and all their facilities ought to be considered on the top priority just to comply the aforesaid orders and directions and as a result of which, the applicant was conscious while discharging his official duty as I/C OD Lock-up to ensure their safety and threat perception, but all these aspects have not been taken into considered by the disciplinary and appellate authorities while passing the impugned orders.

6.3 Counsel further submitted that basis for issuance of show cause notice as well as impugned orders is the complaint dated 5/8.2.2016 of Ct Neeraj Dabas, who was working under him and was performing his duty in carelessness, negligent and lackadaisical manner, as the applicant submitted a report date 16.12.2015 to ACP in relation to Ct. Neeraj Dabas, who was careless in taking care of UTP Mohd. Nauman while producing in Jail as the said UTP could have managed to flee by taking the advantage of the crowd remained in Court. On the basis of which a show cause notice was issued to Ct. Neeraj Dabas and after completion of procedural formalities, the said Ct. Neeraj Dabas was earlier awarded major penalty. As the Ct. Neeraj Dabas had ill-will and grudges against

his senior officer, i.e., the applicant, he made a false complaint dated 5/8.2.2016 which led to issuance of show cause notice to the applicant without verifying the facts and Court's orders passed in favour of UTP Abhishek Verma and his wife Anca Maria Verma.

6.4 Counsel also submitted that in the orders passed by the disciplinary and appellate authorities dated 3.6.2016 and 9.3.2017, it has been mentioned that the applicant accepted his mistakes as the said UTP supposed to be lodged in Kharja in the Lock-up but this acceptance of his mistake cannot be construed as adverse against him because both authorities had to apply independent mind on the material by requisition of material records but the same were ignored. In support of his contention, learned counsel for the applicant placed reliance on the decisions of the Apex Court in the cases of Union of India vs. H.C. Goel, AIR 1964 SC 364, and Colour Chemical Ltd. vs. Al Alaspurkar & Ors., 1998 1 AD (SC) 741.

6.5 Counsel for the applicant further submitted that punishment awarded upon the applicant is not commensurate with the gravity of misconduct alleged against him in the show cause notice.

7. Counsel for the respondents by referring to their counter affidavit submitted that impugned orders are legally valid in the eyes of law as there is no infirmity in passing the same, as the show cause notice for censure dated 18.3.2016 was issued to the applicant for his gross misconduct, negligence and dereliction in discharge of his official duties on the allegation that on 8.2.2016, Const. Neeraj Kumar has submitted complaint against him and thereafter a preliminary enquiry was conducted by ACP/HQ/3rd Bn. DAP, which revealed that on 2.2.2016, the escort guard staff along with UTP Abhishek Verma reached at OD Lock-up for production at 10.14 AM. UTP Abhishek Verma entered in the office room of the applicant at 10.30 AM i.e. after a period of 15 minutes and left for court production with Escort Staff. The UTP was supposed to be lodged in the Kharja at the Lock-up but UTP Abhishek Verma was not lodged in Kharja of OD Lock-up/Tis Hazari, Delhi. After production, said UTP returned to the Lock-up at 12.04 PM. Further at 01.33 PM, UTP Abhishek Verma again entered in the office room of the applicant and came out at 01.46 PM after a period of about 16 minutes. UTP Abhishek Verma had spent almost 31 minutes on two spells with the applicant in his office room. The conduct of the applicant was highly unprofessional and suspicious. He had not only provided undue facility to the UTP but also misused the official power, which is serious lapse on his part.

7.1 Counsel further submitted that in response to show cause notice for Censure, the applicant submitted his written reply. The disciplinary authority carefully went through the written reply submitted by the applicant and also heard him in the Orderly Room on 03.06.2016. In his reply, the applicant mainly pleaded that UTP Abhishek Verma always used to carry an office bag on all court dates and retained that bag with him during production. On 02.02.2016 at 10.50 AM the UTP entered in the applicant's office room along with bag with the direction of I/

C Jail Van HC Om Prakash No.2095/DAP and he did not call him. The applicant also pleaded that as per the statement of HC Om Prakash I/C Jail Van and CCTV footage evidence that home-made food bag was brought at Lock-up at 12.39 PM from outside and the same was consumed by the UTP in the changing room which is adjacent to Mulakat Room in the presence and supervision of I/C Jail Van HC Om Prakash. Applicant also pleaded that being I/C Lock up, his primary duty was to hear the problems of UTPs and redress their problem.

7.2 Counsel also submitted that the disciplinary authority not being satisfied with either the written reply given by the applicant to the show cause notice or the verbal deposition of the applicant, confirmed the show cause notice for censure issued to the applicant and the conduct of the applicant was censured for his above said lapse vide order dated 3.6.2016. Aggrieved by the above order of disciplinary authority, the applicant filed his appeal before the appellate authority, which was duly considered and rejected by the appellate authority vide order dated 9.3.2017.

7.3 Counsel for the respondents emphasized that the applicant himself accepted his mistake in the Orderly Room on 3.6.2016, which is evidently proved from the contention as stated by the applicant in Ground P. of the OA and therefore, the orders passed by the disciplinary and appellate authority are not suffered from any illegality. Rather the same are legally valid in the eyes of law.

7.4 Counsel for the respondents also placed reliance on the decision of the Apex Court in the case of State of T.N. vs S. Subramaniam, (1996) 7 SCC 509, in which it has been held:

"The only question is: whether the Tribunal was right in its conclusion to appreciate the evidence and to reach its own finding that the charge has not been proved. The Tribunal is not a court of appeal. The power of judicial review of the High Court under Article 226 of the constitution of India was taken away by the power under Article 323A and invested the same on the Tribunal by Central Administrative Tribunal Act. It is settled law that the Tribunal has only power of judicial review of the administrative action of the appellant on complaints relating to service conditions of employees. It is the exclusive domain of the disciplinary authority to consider the evidence on record and to record findings whether the charge has been proved or not. It is equally settled law that technical rules of evidence has no application for the disciplinary proceedings and the authority is to consider the material on record. In judicial review, it is settled law that the Court or the Tribunal has no power to trench on the jurisdiction to appreciate the evidence and to arrive at its own conclusion. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. It is meant to ensure that the delinquent receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the view of the court or tribunal. When the conclusion reached by the authority is based on evidence, Tribunal is devoid of power to re-appreciate the evidence and would come to its own conclusion on the proof of the charge. The only

consideration the Court/Tribunal has in its judicial review is to consider whether the conclusion is based on evidence on record and supports the finding or whether the conclusion is based on no evidence. This is consistent view of this Court vide B.C. Chaturvedi vs. Union of India [(1995) 6 SCC 749 : 1996 SCC (L&S) 80 : (1996) 32 ATC 44 : JT (1995) 8 SC 65], State of Tamil Nadu vs. T.V. Venugopalan [(1994) 6 SCC 302 : 1994 SCC (L&S) 1385 : (1994) 28 ATC 294] (SCC para 7), Union of India vs. Upendra Singh [(1994) 3 SCC 357: 1994 SCC (L&S) 768 : (1994) 27 ATC 200] (SCC at para 6), Govt. of T.N. vs. A. Rajapandian [(1995) 1 SCC 216 : 1995 SCC (L&S) 292 : (1995) 29 ATC 89] (see para 4) and B.S. Chaturvedi vs. Union of India : 1996 SCC (L&S) 80 : (1996) 32 ATC 44 : JT (1995) 8 SC 65] (SCC at pp 759-60). In view of the settled legal position, the Tribunal has committed serious error of law in appreciation of the evidence and in coming to its own conclusion that the charge had not been proved. Thus we hold that the view of the Tribunal is ex facie illegal. The order is accordingly set aside. OA/TP/WP stands dismissed." Counsel for the respondents also placed reliance on another decision of the Apex Court in the case of U.P. SRTC v. A.K. Parul, (1998) 9 SCC 416, in which it has been held:-

"3. Aggrieved by that, this appeal is filed by the appellant. This Court consistently has taken the view that while exercising judicial review the courts shall not normally interfere with the punishment imposed by the authorities and this will be more so when the Court finds the charges were proved. The interference with the punishment on the facts of this case cannot be sustained. In State Bank of India v. Samarendra Kishore Endow [(1994) 2 SCC 537 : 1994 SCC (L&S) 687 : (1994) 27 ATC 149] this Court held that imposition of proper punishment is within the discretion and judgment of the Disciplinary Authority. It may be open to the appellate authority to interfere with it, but not to the High Court or to the Administrative Tribunal for the reasons that the jurisdiction of the Tribunal is similar to the powers of the High Court under Article 226. As noticed earlier, the High Court, having found the charges proved, is not justified in interfering with the punishment imposed by the Disciplinary Authority, particularly when in this case, the respondent was once removed from service on the charge of corruption and again reinstated. On the facts, the interference by the High Court was not at all justified. Accordingly, the appeal is allowed, the order of the High Court is set aside and the writ petition filed by the respondent in the High Court stands dismissed. No order as to costs."

7.5 Lastly counsel for the respondents submitted that the instant OA being devoid of merit deserves to be dismissed by this Tribunal.

8. Heard learned counsel for the parties and perused the pleadings on record. With regard to the scope of judicial review to be exercised by the Tribunal in so far as the departmental enquiries are concerned, the Hon^{ble} Supreme Court has earlier laid down the law in several cases, some of which have also been enumerated below: In the case of K.L.Shinde Vs. State of Mysore (1976) 3 SCC 76), the Hon^{ble} Supreme Court in para 9 observed as under:-

"9. Regarding the appellant's contention that there was no evidence to substantiate the charge against him, it may be observed that neither the High Court nor this Court can re-examine and re-assess the evidence in writ proceedings. Whether or not there is sufficient evidence against a delinquent to justify his dismissal from service is a matter on which this Court cannot embark. It may also be observed that departmental proceedings do not stand on the same footing as criminal prosecutions in which high degree of proof is required. It is true that in the instant case reliance was placed by the Superintendent of Police on the earlier statements made by the three police constables including Akki from which they resiled but that did not vitiate the enquiry or the impugned order of dismissal, as departmental proceedings are not governed by strict rules of evidence as contained in the Evidence Act. That apart, as already stated, copies of the statements made by these constables were furnished to the appellant and he cross - examined all of them with the help of the police friend provided to him. It is also significant that Akki admitted in the course of his statement that he did make the former statement before P. S. I. Khada - bazar police station, Belgaum, on November 21, 1961 (which revealed appellant's complicity in the smuggling activity) but when asked to explain as to why he made that statement, he expressed his inability to do so. The present case is, in our opinion, covered by a decision of this Court in *State of Mysore v. Shivabasappa*, (1963) 2 SCR 943 = AIR 1963 SC 375 where it was held as follows:-

"Domestic tribunals exercising quasi-judicial functions are not courts and therefore, they are not bound to follow the procedure prescribed for trial of actions in courts nor are they bound by strict rules of evidence. They can, unlike courts, obtain all information material for the points under enquiry from all sources, and through all channels, without being fettered by rules and procedure which govern proceedings in court. The only obligation which the law casts on them is that they should not act on any information which they may receive unless they put it to the party against who it is to be used and give him a fair opportunity to explain it. What is a fair opportunity must depend on the facts and circumstances of each case, but where such an opportunity has been given, the proceedings are not open to attack on the ground that the enquiry was not conducted in accordance with the procedure followed in courts.

2. In respect of taking the evidence in an enquiry before such tribunal, the person against whom a charge is made should know the evidence which is given against him, so that he might be in a position to give his explanation. When the evidence is oral, normally the explanation of the witness will in its entirety, take place before the party charged who will have full opportunity of cross-examining him. The position is the same when a witness is called, the statement given previously by him behind the back of the party is put to him, and admitted in evidence, a copy thereof is given to the party and he is given an opportunity to cross-examine him. To require in that case that the contents of the previous statement should be repeated by the witness word by word and sentence by

sentence, is to insist on bare technicalities and rules of natural justice are matters not of form but of substance. They are sufficiently complied with when previous statements given by witnesses are read over to them, marked on their admission, copies thereof given to the person charged and he is given an opportunity to cross-examine them."

Again in the case of B.C.Chaturvedi Vs. UOI & Others (AIR 1996 SC 484) at para 12 and 13, the Hon^{ble} Supreme Court observed as under:-

"12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in eye of the Court. When an inquiry is conducted on charges of a misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice be complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal on its power of judicial review does not act as appellate authority to reappraise the evidence and to arrive at the own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.

13. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has co-extensive power to reappraise the evidence or the nature of punishment. In a disciplinary inquiry the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. In Union of India v. H. C. Goel (1964) 4 SCR 718 : (AIR 1964 SC 364), this Court held at page 728 (of SCR): (at p 369 of AIR), that if the conclusion, upon consideration of the evidence, reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued". Further, in the case of Union of India and Others Vs. P.Gunasekaran (2015 (2) SCC 610), the Hon^{ble} Supreme Court has observed as under:-

"Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, re-appreciating even the evidence before the enquiry officer. The finding on Charge no.I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Article 226/227 of the Constitution of India, shall not venture into re-appreciation of the evidence. The High Court can only see whether:

- a. the enquiry is held by a competent authority;
- b. the enquiry is held according to the procedure prescribed in that behalf;
- c. there is violation of the principles of natural justice in conducting the proceedings;
- d. the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;
- e. the authorities have allowed themselves to be influenced by irrelevant or extraneous consideration;
- f. the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;
- g. the disciplinary authority had erroneously failed to admit the admissible and material evidence;
- h. the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;
- i. the finding of fact is based on no evidence."

9. In the light of the aforesaid observations of the Apex Court, it is observed that so far as contentions of the applicant that said UTP Abhishek Verma and his wife UTP Anca Maria Verma were under the protection of Court's orders for getting the home food, carrying handbags containing books and documents and provide high security to them as directed vide orders dated 29.10.2007, 18.2.2008, 20.3.2008, 5.10.2012 and 16.6.2014 is concerned, this Tribunal perused the aforesaid Orders passed by the Court in relations to the cases of UTPs supra, but we do not find any such direction in any of the said orders that the said UTP Abhishek Verma be given special facilities de hors the rules and regulations meant for handling the UTPs. Further the applicant has himself in Ground P. of the OA admitted that he committed the mistake that the said UTP was supposed to be lodged in Kharja in the Lock up, Tis Hazari, and further that he was not supposed to allow the said UTP to enter in his office room and the said UTP remained in his office room at about 31 minutes on two spells. This fact has not been specifically refuted by the applicant in any of the grounds taken in the OA. Rather he is harping on the plea that whatever facilities he has provided to the said UTP and the wife of said UTP were as per the directions of the Courts in the

cases under adjudication before them. As such the said act of the applicant cannot be said to be a case of no misconduct or that there was no evidence. The judgments relied upon by the applicant are apparently distinguishable on the basis of the facts and as such not relevant to the present factual position. Keeping in view the aforesaid observations of the Apex Court, this Tribunal found that the orders passed by the disciplinary and appellate authorities are reasoned and detailed orders, which do not suffer from any illegality.

10. So far as the contention of applicant that punishment awarded is not commensurate with the gravity of misconduct alleged against him is concerned, it is well settled proposition of law, as held by the Hon^{ble} Apex Court in catena of cases, that it is only in those cases where the punishment is so disproportionate that it shocks the conscience of the court that the matter may be remitted back to the authorities for reconsidering the question of quantum of punishment. In Administrator, Union Territory of Dadra and Nagar Haveli Vs. Gulabha M. Lad, reported in 2010 (3) ALSJ SC 28, it has been held by Hon^{ble} Supreme Court as under:-

"The legal position is fairly well settled that while exercising power of judicial review, the High Court or a Tribunal it cannot interfere with the discretion exercised by the Disciplinary Authority, and/or on appeal the Appellate Authority with regard to the imposition of punishment unless such discretion suffers from illegality or material procedural irregularity or that would shock the conscience of the Court/Tribunal". We do not find anything shocking in the order passed by the disciplinary authority as well as appellate authority. Rather the orders are clear and comprehensive and have stated the full reasons for not accepting the contentions of the applicant and for coming to the conclusion that this applicant deserves to be censured for his conduct.

11. Hence, in view of the facts of the case and law laid down by the Hon^{ble} Supreme Court (supra) on the subject of disciplinary proceedings and for the reasons stated hereinabove, this Tribunal does not find any merit in this case and the same is accordingly dismissed. No order as to costs.