

(2018) 09 CAT CK 0137

In the Central Administrative Tribunal

Case No : Original Application No. 419 Of 2013

Rati Ram Saroj

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 10-09-2018

Acts Referred:

Prevention Of Corruption Act, 1988 — (19)(a)(a)
Central Civil Services (Classification, Control And Appeal) Rules, 1965 — Rule 14,
14(2), 14(3), 14(12), 14(13)
Central Civil Services (Conduct) Rules, 1964 — Rule 3
Constitution Of India, 1950 — Article 311(1), 311(2)

Citation : (2018) 09 CAT CK 0137

Hon'ble Judges : L. Narasimha Reddy, Aradhana Johri, Member (A)

Bench : Division Bench

Advocate : S. K. Gupta, Harvinder Oberoi, G.D. Chawla

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J

1. This case has a very long and chequered career, spread over several decades.
2. The applicant joined the service of Union Public Service Commission, and was working as Under Secretary in the year 1985. He appeared in the Civil Services (Main) Examination held in the year 1985. On the basis of the marks secured by him, he was selected to the Indian Administrative Service, and a letter of appointment dated 31.07.1986 was also issued. Before the applicant had joined the Service, a complaint was received by the UPSC to the effect that he had secured very high marks in the Civil Services Examination by substituting fresh written answer-sheets in the answer books of General Studies papers I and II, History paper II, and Philosophy papers I and II. A charge memorandum was issued in this behalf on 21.11.1989 by the appointing authority. An article of charge was framed, and statement of imputation was supplied together the list of witnesses and documents.

3. The applicant initiated several proceedings before this Tribunal as well as the High Court, challenging the disciplinary proceedings at various stages. Ultimately the inquiry officer submitted his report. Central Vigilance Commission concurred with the findings of the inquiry officer, and the opinion of the UPSC was also obtained in this regard. Through an order dated 05.04.2007, the disciplinary authority dismissed the applicant from service.

4. The applicant filed OA No.604/2008, challenging the order of dismissal dated 05.04.2007 by raising several grounds. One such ground was that the copy of the advice tendered by the UPSC was not made available to him. Reliance was placed upon the judgment of the Hon"ble Supreme Court in Union of India & others v S. K. Kapoor [(2011) 4 SCC 589]. The OA was allowed through order dated 26.08.2011 on the ground that the copy of the advice tendered by the UPSC was not made available to the applicant, and the order of dismissal was set aside. Liberty was given to the respondents to take further steps in the matter.

5. The respondents furnished the copy of the advice tendered by the UPSC to the applicant, and the latter in turn made his representation raising certain grounds. On a consideration of the same, the disciplinary authority passed an order dated 11.01.2012 imposing the punishment of dismissal from service on the applicant. The same is challenged in this OA.

6. The applicant contends that the entire proceedings are vitiated on account of several infirmities and illegalities, starting from the stage of initiation of the proceedings, and ending with the passing of the final order of punishment. It is stated that on account of the failure to follow the relevant provisions of law, the order of dismissal and the other proceedings leading thereto, are vitiated, and that the order of dismissal is liable to be set aside.

7. The respondents filed a counter affidavit opposing the OA. They submit that the applicant obstructed the proceedings at every stage, and the impugned order has been passed only after ensuring that all the grounds raised by the applicant in the representation are considered in accordance with law.

8. Shri S. K. Gupta, learned counsel for the applicant, submits that the very issuance of the charge-sheet is untenable since the appointing authority did not accord its approval for the same. It is also his case that the approval accorded by the appointing authority for the appointment of the inquiry officer and the presenting officer is defective, since that preceded service of the memorandum of charge. Reliance is placed upon the judgment of the Hon"ble Supreme Court in B. V. Gopinath & others v Union of India & others [(2014) 1 SCC 351]. He further contends that the copy of the complaint which gave rise to the initiation of the disciplinary proceedings was not furnished to the applicant, and that though the inquiry officer held that substantial part of the charge is not proved, a finding was recorded as though the entire charge is proved.

9. Another contention urged by the learned counsel is that certain documents were filed without examining the persons connected with them, as witnesses,

and that the statements of un-examined witnesses were relied upon. It is also urged that though the UPSC has relied upon the views expressed by various officials, in the context of tendering its opinion, copies of such views were not made available to the applicant. His last contention is that in coming to the conclusion for imposing punishment, the views of certain other authorities were taken into account by the disciplinary authority, and that constitutes an extraneous consideration. He placed reliance upon certain other precedents also.

10. Ms. Harvinder Oberoi, learned counsel for the respondents, submits that all the steps, ranging from obtaining approval for initiation of disciplinary proceedings, to framing of charge, and holding of inquiry, were taken strictly in accordance with the prescribed procedure. She submits that the appointing authority in the instant case happens to be the Prime Minister, and his approval was obtained by submitting a comprehensive note, for - (a) initiation of disciplinary proceedings; (b) issuance of charge-sheet; and (c) prosecution, and as regards the ancillary matters, the relevant notifications empower the concerned Minister of State. She submits that there is no prohibition in law against obtaining approval for the charge-sheet, and the appointment of the inquiry officer and the presenting officer at one and the same time, and that no prejudice can be said to have been caused to the applicant. The learned counsel submits that the judgment of the Hon"ble Supreme Court in B. V. Gopinath's case does not squarely apply to the facts of the present case, particularly when the case before the Apex Court was decided mostly on the basis of the office order of the Finance Ministry, which prescribed a detailed procedure, and that such is not the case here.

11. As regards other contentions of the learned counsel for the applicant, Ms. Oberoi submits that all of them were raised in OA No.604/2008, and once this Tribunal has disposed of the same, by directing supply of the copy of advice of UPSC and permitting the applicant to submit representation in relation thereto, it is not open to him to raise the grounds once again in this OA. Alternatively, she submits that none of the grounds stand scrutiny of law, nor can they be sustained on verification of the record. She too placed reliance upon precedents.

12. The applicant, who was an employee of UPSC, the premier agency entrusted with the work of selection of civil servants, intended to participate in the Civil Services Examination held in the year 1985. He emerged as successful therein, so much so, that a letter of appointment was also issued. Then came a complaint stating that the applicant resorted to certain mal practices of very serious nature in the examination. The investigation into the matter was entrusted to CBI, the answer scripts of the applicant were submitted to scrutiny by experts and the Forensic Sciences Laboratory. After the investigation in the criminal case was completed, the stage was set for initiation of the disciplinary proceedings under Rule 14(3) of the CCS (CCA) Rules, 1965.

13. The charge-sheet was issued on 21.11.1989, wherein following charge was framed:

"ARTICLE-I

That Shri Rati Pal Saroj, while functioning as Section Officer/Under Secretary in the Union Public Service Commission, New Delhi during the period 1985-86, with the help of other officials of the Union Public Service Commission, substituted fresh written answer sheets of General Studies Papers I & II, answer books of History Paper II and Philosophy Papers I & II for the Civil Services (Main) Examination held in 1985 and obtained very high marks with the result that he was selected and delivered appointment letter dated 31.7.1986 by the Central Government for the post in the Indian Administrative Service, Group "A" service for which he could not otherwise have been selected.

Shri Rati Pal Saroj by his above acts exhibited lack of integrity and conduct unbecoming of a Government servant, thereby violating Rule 3 of the Central Civil Services (Conduct) Rules, 1964."

After crossing several hurdles created by the applicant, the inquiry progressed, and a report was submitted holding that the charge framed against the applicant is proved. Order dated 05.04.2007 imposing the punishment of dismissal from service was passed. However, that was set aside by this Tribunal in OA No.604/2008 on the ground that the advice tendered by the UPSC was not furnished to the applicant. Availing the liberty given by the Tribunal, copy of the advice was supplied to the applicant, and on consideration of the representation submitted by him, the impugned order of punishment dated 11.01.2012 was passed.

14. Learned counsel for the applicant urged as many as eight grounds in challenge to the impugned order. Grounds 1 and 2 are inter-connected. According to the applicant, there was no approval for the charge-sheet by the appointing authority, as required under law, and that the approval accorded was only in relation to the appointment of the inquiry officer and the presenting officer. The respondents deny this allegation, and submit that comprehensive approvals, not only for the charge-sheet, but also for appointment of the inquiry and presenting officers, and for prosecution of the applicant in the criminal case, were obtained. The extract from the relevant note files are made part of the OA.

15. In B. V. Gopinath's case, the Hon"ble Supreme Court held that grant of approval for just initiation of disciplinary proceedings would not be adequate, and approval must be accorded by the appointing authority for the charge-sheet also. In para 41 of the judgment, the Supreme Court held as under:

"41. Disciplinary proceedings against the respondent herein were initiated in terms of Rule 14 of the aforesaid Rules. Rule 14(3) clearly lays down that where it is proposed to hold an inquiry against a government servant under Rule 14 or Rule 15, the disciplinary authority shall draw up or cause to be drawn up the charge sheet. Rule 14(4) again mandates that the disciplinary authority shall deliver or cause to be delivered to the government servant, a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and

the supporting documents including a list of witnesses by which each article of charge is proposed to be proved. We are unable to interpret this provision as suggested by the Additional Solicitor General, that once the disciplinary authority approves the initiation of the disciplinary proceedings, the charge sheet can be drawn up by an authority other than the disciplinary authority. This 2 Page 29 would destroy the underlying protection guaranteed under Article 311(1) of the Constitution of India. Such procedure would also do violence to the protective provisions contained under Article 311(2) which ensures that no public servant is dismissed, removed or suspended without following a fair procedure in which he/she has been given a reasonable opportunity to meet the allegations contained in the charge sheet. Such a charge sheet can only be issued upon approval by the appointing authority i.e. Finance Minister."

It emerges from this that the approval must be not only for initiation of the disciplinary proceedings, but also for the charge-sheet. However, there is nothing to indicate therein that these two aspects must be done separately. The requirement was felt mostly on account of the procedure prescribed in office order No.205 dated 19.07.2005 of the concerned department. It is evident from para 42 of the judgment, which reads as under:

"42. In fact, issuance of the office order No.205 dated 19th July, 2005 makes it evident that the respondents were aware of the legal position. The office order clearly sets out the levels of the decision making authorities depending on the gravity of the consequences that would have to be faced by a delinquent public servant in case the decision is taken to proceed against the public servant. Clause (1) deals with closure of complaints which are anonymous/pseudonymous; if the decision is taken to close the complaint it can be taken by the CVO. But in case of verifiable facts, the complaints have to be referred to the 2 Page 30 next level of hierarchy CVB (Central Vigilance Bureau). For placing an officer under suspension, the decision has to be taken by the Finance Minister himself. Even review of suspension at quarterly/half yearly interval rests with the Finance Minister. This is so, as suspension during contemplation/pendency of enquiry, though may not be penal in nature per se, still has very serious adverse consequences on the professional as well as the personal life of the officer suspended. The office order recognizing the gravity of the consequences ensures that the decision in relation to suspension/review of suspension shall be taken by the highest authority in the department i.e. the Finance Minister. In matters related to reference to CVC for first stage advice, the competent authority is the Secretary (Revenue). Similarly, for reconsideration of CVC's first stage advice, again the competent authority is the Secretary (Revenue), but in case of disagreement with CVC's first stage advice on approval for referring the case to Department of Personal and Training, the competent authority is the Finance Minister."

16. Before applying the ratio of the said judgment to the facts of the present case, another facet of the very issue, namely, whether approval for more steps

than one can be accorded in common, needs to be dealt with. This can be approval for - (a) initiation of disciplinary proceedings, and (b) issuance of charge-sheet; together, or in similar combinations.

17. In *Dr. Hari Prasad v Union of India* - OA No.1125/2014, decided on 21.02.2017, this Tribunal extracted the relevant provisions of rule 14(2) and (3) of the CCS (CCA) Rules, 1965, and observed as under:

"From a reading of the aforesaid provisions, we find that the same material is to be examined by the disciplinary authority while forming opinion for initiation of disciplinary proceedings under rule 14(2) and while preparing charge-sheet under rule 14(3), the first step being decision to initiate disciplinary proceedings and the second step to prepare/approve the charge-sheet. Thus, the Hon"ble Supreme Court has observed that there are two distinct stages. From the notings we find that the proposal contained in para 12 of the notings referred to hereinabove for initiation of disciplinary proceedings and serving of the charge-sheet was approved by the Hon"ble Minister. We are of the considered opinion that there is no prohibition in combining the two stages if the material to formulate an opinion for initiating disciplinary proceedings and for framing the charges is same, provided a charge-sheet is duly prepared and placed before the disciplinary authority for its consideration and approval...."

It was categorically held that there is no prohibition, in this regard.

18. Coming to the facts of the case, it has already been mentioned that the appointing authority in this case happens to be the Prime Minister. A comprehensive note was submitted for his approval. Paras 10 and 11 of the note that ended with the signatures of the Desk Officer on 28.09.2989, read as under:

"10. The drafts of the sanction order for prosecution of Shri Rati Pal Saroj and chargesheet for initiating departmental proceedings against him are based on the facts mentioned in the SP"s report and appear to be in order.

11. The case may be submitted to the Prime Minister through MOS(PP) for soliciting his approval to the prosecution as well as initiation of major penalty proceedings against Shri Saroj. Approval of the Prime Minister is also solicited for appointment of Inquiry Officer and Presenting Officer in case Shri Saroj denies the charges against him."

In continuation of this very note, the various developments that have taken place in the course of the inquiry by CBI and CVC, were mentioned, and the final paragraphs of the note read as under:

"10. Orders of Prime Minister as Minister in-Charge of the Department is solicited for the following:-

(1) To initiate major penalty proceedings against Shri Ratipal Saroj under Rule 14 of the CCS (CCA) Rules, 1965 on the following charge:

(a) That while functioning as Under Secretary in the Union Public Service

Commission, New Delhi during the period 1985-86, with the help of other officials of UPSC substituted three answer sheets of General Studies Papers I & II, answer papers History Paper I & II and Philosophy Papers I & II for the Civil Services (Main) Examination held in 1985 and obtained very high marks with the result that he was selected and delivered appointment letter dated 31.7.86 by the Central Government to the Indian Administrative Service, for which he could not otherwise have been selected. Shri Saroj by his above act exhibited lack of integrity and conduct, unbecoming of a Government servant thereby violating Rule 3 of the CCS (Conduct) Rules, 1966.

(2) Sanction to prosecute Shri Ratipal Saroj under different Sections of the IPC and the Prevention of Corruption Act for entering into a criminal conspiracy with employees of the Union Public Service Commission, New Delhi with the object of cheating the UPSC, as well as Central Government, by corrupt or illegal means, or by abusing the official position of the accused public servants.

11. Prime Minister may therefore kindly approve;

i) Major Penalty Proceedings under Rule 14 of the CCS (CCA) Rules, 1965 against Shri Ratipal Saroj,

ii) Appointment of Inquiry Officer and Presenting Officer, and

iii) Accord sanction for prosecution under Section (19) (a) (a) of the Prevention of Corruption Act, 1988 and under Section 197 of Cr.PC."

Approval for this was accorded by the Prime Minister on 16.10.1989.

19. It is vehemently argued by the learned counsel for the applicant that though a charge was reproduced in para 10, extracted above, the approval of the Prime Minister was not obtained with reference to that, and it was only for the major penalty proceedings, appointment of the inquiry officer and the presenting officer, and sanction of prosecution. We find it difficult to accept this contention. The reason is that the earlier note clearly mentions that the drafts of - (a) sanction for prosecution of the applicant, and (b) charge-sheet for initiating disciplinary proceedings, are made part of the record. They, in turn, were based upon the facts mentioned in the report of the SP. In addition to that, the subsequent notes are in continuation of the earlier ones, and for the perusal of the appointing authority, the charge was also reproduced. In para 11 extracted above, approval was sought for - (a) major penalty proceedings, and (b) appointment of inquiry officer and presenting officer (sanction for prosecution under the provisions of Prevention of Corruption Act does not relate to the disciplinary proceedings). Once the charge has been perused by the appointing authority, and a comprehensive approval was accorded, it cannot be said that there was no approval for the charge-sheet.

20. A distinction is sought to be made by the learned counsel for the applicant that the "charge", on the one hand, and the "charge-sheet", on the other. It is also argued that, at the most, the appointing authority can be said to have

approved the "charge" and not the "charge-sheet". Here again, the record does not support this contention. In the note, a specific reference was made to the "draft of the charge-sheet" and obviously for the sake of convenience, charge was reproduced at a later stage for kind perusal of the Prime Minister. One cannot expect the Prime Minister to go through the charge-sheet in detail and put his signatures on that, as a mark of approval.

21. Secondly, in the context of the disciplinary proceedings, much difference does not exist between the "charge", on the one hand, and the "charge-sheet", on the other hand. The charge-sheet is nothing but a formal document, which provides a preamble to the charge, and contains the formal statements, such as the charged employee being placed under an obligation to put his defence. It may also contain the list of documents and witnesses. The nucleus of the entire document has to be the charge, and, the rest, a formal supplement.

22. Now, it needs to be seen whether the judgment in B. V. Gopinath's case applies to the facts of the present case. Firstly, the case was decided mostly with reference to the typical procedure contained in office order No.205 dated 19.07.2005 that stipulated various steps to be followed in the departmental inquiry against the officers of the Ministry of Finance. This is evident from paragraph 42 of the judgment, extracted hereinabove.

23. Secondly, the violation pointed out therein was that except that approval was accorded for initiation of disciplinary proceedings, no approval was accorded for the charge or the charge-sheet. The appointing authority in that case did not have the opportunity to peruse the charges or the charge-sheet. It appears to have been issued at a later point of time after the approval for initiation of the disciplinary proceedings. Law requires that the disciplinary authority must know the content of the charges to be framed against the employee.

24. In the instant case, however, the charge-sheet, or, at least, the charge, was very much part of the note submitted for approval by the Prime Minister. Obviously, because of the difficulty in approaching the Prime Minister for each and every step involved in the disciplinary inquiry, a comprehensive approval for - (a) initiation of disciplinary proceedings, (b) charge-sheet, and (c) appointment of inquiry officer and presenting officer, was obtained. We do not find anything in law which prohibits such a course of action, particularly in exceptional cases where the Prime Minister happens to be the appointing authority.

25. It is true that in the ordinary course of things, the inquiry officer or the presenting officer are appointed after the charge-sheet is issued to the charged employee, and the explanation submitted by him is considered by the disciplinary authority. However, if this very arrangement is kept in reserve, in anticipation, it cannot be treated as a step that renders the submission of the explanation by the charged official as redundant. Almost in every disciplinary action, issuance of charge-sheet follows inquiry. Only exception is where the charged employee accepts the charge. Extreme and rare cases are where the explanation satisfies

the disciplinary authority that the charge is baseless. It is keeping in view the possibility of the applicant accepting the charge framed against him, that the note was put in almost contingent terms. That is evident from the following sentence in the note:

"Approval of the Prime Minister is also solicited for appointment of Inquiry Officer and Presenting Officer in case Shri Saroj denies the charges against him (emphasis supplied)."

Therefore, no exception can be taken to the approval accorded by the appointing authority to the three steps involved in the inquiry, namely, initiation of disciplinary proceedings, approval of the charge-sheet, and appointment of inquiry officer and presenting officer.

26. The third point raised by the learned counsel for the applicant is that the disciplinary proceedings were vitiated on account of non-furnishing of copy of the complaint that gave rise to the disciplinary proceedings. Reliance is placed upon sub-rules (12) and (13) of Rule 14 of the CCS (CCA) Rules, 1965. The provisions referred to above, no doubt, place the inquiring authority under an obligation to forward a notice for discovery or production of documents to the authority in whose custody or possession the documents are kept. In the instant case, however, the complaint that gave rise to the disciplinary proceedings is not said to be in any particular form. All the same, it gave rise to the initiation of the criminal as well as the disciplinary proceedings. The applicant has faced a full-fledged trial in a criminal case. He could have certainly accessed every document in the trial. If he did not make any effort before the criminal court to get the complaint, he cannot insist on production of the same in the departmental inquiry.

27. Further, the effect of the so called complaint was just to put the machinery in motion, and by itself, it did not result in any particular form of inquiry. The issues of confidentiality were also involved. The applicant cannot be said to have suffered any detriment on account of the non-furnishing of the so called complaint. The effort in the disciplinary proceedings is to enable the employee to know the type of allegations against him and to give him opportunity to defend himself. The disciplinary proceedings cannot be equated to trials in criminal court, nor the scrutiny can be on par with the one in writs of habeas corpus. If the applicant did not get a copy of the complaint in the criminal case, or he did not feel its necessity there, he cannot complain of the same in the departmental proceedings.

28. It is next contended by the learned counsel for the applicant that the charge is comprehensive in nature, containing several facets, and though the inquiry officer held that the allegation as to replacement of the answer-books in Philosophy papers I and II, is not proved, the report was submitted holding that the charge is proved. A perusal of the charge, which is extracted in the preceding paragraphs, discloses that the allegation against the applicant was that he resorted to acts of substitution of fresh written answer sheets of - (a) General

Studies papers I and II, (b) answer books of History paper II, and (c) answer books of Philosophy papers I and II, for the CSE (Main) Examination held in the year 1985. In other words, the allegation is in respect of five papers. It should be said to the credit of the inquiry officer that he has undertaken a dispassionate analysis of the matter, and held that the allegation as regards Philosophy papers I and II is not proved. About other three papers, the finding is that the act of substitution of fresh written answer sheets was proved.

29. The charge itself was framed in such a way that it reflected upon the lack of integrity and conduct unbecoming of a Government servant, thereby violating rule 3 of the CCS (Conduct) Rules. Furnishing of particulars of papers in which mal practice is said to have taken place, is the elaboration of the allegation. Even if some of the facets of those allegations are proved, they would naturally lead to a conclusion as to lack of integrity and conduct, unbecoming of a Government servant. The fact that the allegation in respect of two papers was not proved does not lead to a conclusion that the "lack of integrity and conduct unbecoming of a Government servant is partly proved". Charges of this nature are either proved or not proved, and they do not depend upon the quantum of the illegality. Even if the mal practice is proved in respect of just one paper, the charge of misconduct stands established.

30. Another contention of the learned counsel for the applicant is that certain documents were introduced into the inquiry without examining the authors or custodians of those documents being examined as witnesses. It is stated that though a list of 53 witnesses was furnished, only 18 of them were examined. The law does not insist that every witnesses who is cited by the department must be examined, or that the failure to examine any witness would have any adverse impact on the disciplinary proceedings. Almost on the same lines, it is argued that statements of some of the persons who were not examined as witnesses were relied upon. Reliance is placed upon the judgment of the Hon^{ble} Supreme Court in *Union of India v T. R. Varma* [AIR 1957 SC 882. Their Lordships explained the law in this behalf as under:

"14. Now, it is no doubt true that the evidence of the respondent and his witnesses was not taken in the mode prescribed in the Evidence Act; but that Act has no application to enquiries conducted by tribunals, even though they may be judicial in character. The law requires that such tribunals should observe rules of natural justice in the conduct of the enquiry, and if they do so, their decision is not liable to be impeached on the ground that the procedure followed was not in accordance with that, which obtains in a Court of law. Stating it broadly and without intending it to be exhaustive, it may be observed that rules of natural justice require that a party should have the opportunity of adducing all relevant evidence on which he relies, that the evidence of the opponent should be taken in his presence, and that he should be given the opportunity of cross-examining the witnesses examined by that party, and that no materials should be relied on against him without his being given an opportunity of explaining them. If these

rules are satisfied, the enquiry is not open to attack on the ground that the procedure laid down in the Evidence Act for taking evidence was not strictly followed. Vide the recent decision of this Court in *New Prakash Transport Co. v. New Suwarna Transport Co.* [1957 SCR 98], where this question is discussed."

There cannot be any second opinion about the law enunciated in the said judgment. The learned counsel is not able to point out either that the principles of natural justice have been violated or that the applicant was not given opportunity to cross examine the witnesses, or that any material which was not made available to him, was relied upon by the inquiry officer.

For variety of reasons, some witnesses who are cited initially may not turn up, or, sometimes, may be, given up. What one has to see in the ultimate analysis is whether the evidence adduced by the department is sufficient to prove the charges.

31. Though a general allegation is made that the documents were filed otherwise than through the authors or custodians, nothing is elaborated thereon, nor is the infraction of any particular provision of law established. Hence, we do not accept this contention of the learned counsel for the applicant.

32. We may also point out that in respect of the many points raised above, a legal bar operates against the applicant. An order of dismissal was passed against the applicant on 05.04.2007, and the same was challenged in OA No.604/2008. The order of punishment was set aside on the ground that the copy of advice of UPSC was not made available to the applicant. All the same, if he wanted to reserve to himself the liberty to raise the contention with reference to the proceedings up to the stage of submission of the report of inquiry officer, he ought to have sought leave of the Tribunal, or if necessary, approached the High Court in this behalf. That not having been done, the applicant cannot raise those grounds at this stage. The adjudication in this OA can be with reference to the stage subsequent to the furnishing of the copy of advice of UPSC. All the same, we do not rest our conclusions on the points referred to above, on this aspect. We are only pointing out the legal position that obtains in this behalf.

33. As regards the stage subsequent to the furnishing of the copy of advice of UPSC, the learned counsel has urged two points. First is that though reference is made to the comments of officials of the department in the advice, they were not made available to him. After hearing the learned counsel for parties, we feel that this is too specious a plea. Whenever the opinion of UPSC is sought in the disciplinary proceedings, a requisition in a prescribed form is to be made. For the purpose of better appreciation and proper understanding, information is required on certain aspects. Naturally, the department furnishes information in a standard format by filling the form while forwarding the report of the inquiry officer and the relevant records. That cannot be treated as an independent comment. When the very exercise of forwarding the matter to UPSC is to obtain its advice, the question of the department advising the UPSC, or the latter placing reliance upon

the comments of the department, does not arise.

34. Another facet of this very plea is that placing reliance on the views of the authorities or the comments of administrative authorities constitutes an extraneous consideration in the entire exercise. It has already been clarified that the so called comments are nothing but the precise information pertaining to the inquiry conducted and other associated matters. By no stretch of imagination, they are the expert opinions or binding advices. The only advice that has the legal backing is the one tendered by UPSC, and any other material in the process of tendering the advice is only supporting in nature.

35. Viewed from any angle, we do not find any basis to interfere in the order of dismissal passed against the applicant. We, therefore, dismiss the OA. It is hoped that at least now, the proceedings which were initiated in the later part of the twentieth century against the applicant, assume finality. There shall be no order as to costs.