
(2019) 10 DEL CK 0230

In the Delhi High Court

Case No : Civil Writ Petition No. 436 Of 2018, Civil Miscellaneous Application No. 1843, 1845 Of 2018

Union Of India & Ors

APPELLANT

Vs

Dr. Gausal Azam Khan

RESPONDENT

Date of Decision : 21-10-2019

Acts Referred:

Central Civil Services (Conduct) Rules, 1964 — Rule 3(1)(iii), 8, 13, 14
Central Civil Services (Classification, Control And Appeal) Rules, 1965 — Rule 14(5)
(a), 14(15), 14(18)

Citation : (2019) 10 DEL CK 0230

Hon'ble Judges : Dr. S. Muralidhar, J; Talwant Singh, J

Bench : Division Bench

Advocate : Abha Malhotra, Sathish, Rajesh Kumar

Final Decision : Dismissed

Judgement

Dr. S. Muralidhar, J

1. The Union of India through the Ministry of Defence ("MoD"), the Director General of the Defence Research Development Organization ("DRDO") and its other officers, have filed this petition, challenging an order dated 20th July, 2017, passed by the Central Administrative Tribunal, Principal Bench, New Delhi ("CAT"), allowing OA No. 3685/2014, filed by the Respondent herein, and quashing the penalty order dated 8th December, 2015, passed by the Disciplinary Authority ("DA"), awarding him the punishment of "reduction to a lower time-scale of pay by three stages for a period of one year with effect from date of issue of this order, which shall not affect his future increments and promotion."

Background facts

2. The background facts are that the Respondent was selected as Scientist "D", by a letter dated 4th September, 2008 issued by the DRDO. He joined in the

Department of Defence Institute of Physiology and Allied Science ("DIPAS"), Lucknow Road, Timarpur.

3. In the year 2010, the Respondent was in-charge of the Haematology Group of Research. He along with two scientists, Dr. Zahid Ashraf and Dr. R. Sugadev was asked to submit a combined project concept. The said three scientists applied to the Director, DIPAS to submit a proposal to the International Society on Thrombosis and Haemostasis ("ISTH"), for a conference to be held in Japan in 2011. A copy of the conference brochure was enclosed. The deadline for submitting extracts of the papers to be submitted at the said conference expired on 14th February, 2011. However, by that date, there was no response from the Director.

4. According to the Respondent, not anticipating any objection by the Director, he uploaded the abstract of the project paper online for presentation at the said ISTH, 2011 conference. The said abstract was selected and the Respondent was nominated for the "Developing World Scientist Award". He intimated the above development to the Director through email, and requested for permission to receive the award. However, no permission was granted. Subsequently, the Respondent applied for a "no objection certificate" ("NOC") for travelling abroad. Meanwhile, the Respondent requested his cousin, who lives in Japan, to collect the award on his behalf at the conference.

Memorandum of charges

5. A Charge Memorandum dated 21st April, 2014 was served on the Respondent, in which the substance of imputation of misconduct, in respect of which the enquiry was to be held, was as under:

"Article-1: That the said Dr GA Khan while functioning as SC 'D' during the year 2011 submitted abstract for the International Society on Thrombosis and Haemostasis on 04 Feb 2011 for approval without mentioning the last date of its submission (i.e. 14 Feb 2011). Director, DIPAS forwarded the abstract to the Review Committee. The Review committee appointed by Director made some amendment/suggestions and requested for its resubmission. The officer never replied to the Review Committee and submitted the research paper online on 14 Feb 2011 without prior permission/approval of the Competent Authority. Thus the officer entered into correspondence with foreign university/institution without obtaining prior permission required vide policy letter No. DOP/07/PolicyI79957/M/OI dated 01 Oct 2004. It amounts to unbecoming of a professional Scientist to question the collective wisdom of the review committee. He, therefore, committed an act unbecoming of Government Servant. He, thus, violated the provision of Rule 3(1) (iii) of the CCS (Conduct) Rules, 1964.

Article 2: That the said Dr GA Khan while functioning as Sc 'D' applied for NOC for proceeding abroad on personal grounds to meet his brother in Japan. However, the said Dr G A Khan attended an international conference as confirmed by conference desk and also received US \$ 1500 as travel award. The

travel award (Developing World Scientists Travel Award) shows him as representative of Sinha Institute of Medical Sciences & Technology. Dr G A Khan neither obtained prior permission to attend the conference nor informed office about receipt of award during his visit to Japan. The act of officer is highly objectionable as it proves cheating and also manifests doubts about the integrity of the scientist towards its organization. He therefore committed an act unbecoming of a Government servant. He, thus, violated the provisions of Rule 3 (I) (iii) of the CCS (Conduct) Rules 1964."

6. The Respondent submitted his defence in writing on 1st May, 2014, denying the above charges. An Inquiry Authority ("IA") was appointed by an order dated 5th June, 2014. A Presenting Officer ("PO") was also appointed subsequently by order dated 20th March, 2015.

7. The IA submitted a report holding that the charges against the Respondent stood proved in accordance with Rule 15 (2) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 ["CCS (CCA) Rules"]. A copy of the report was forwarded to the Respondent on 8th October, 2015.

The Respondent's representation against the inquiry report

8. The Respondent, on 4th November 2015, submitted a representation against the said report. Inter alia, he pointed out as under:

(i) Despite knowing that the last date for submission of the abstract was 14th February, 2011, the Director deliberately delayed permission, thus denying the Respondent opportunity to attend the conference.

(ii) The Respondent had proceeded for Japan on 25th July, 2011 to meet his cousin brother.

(iii) The Respondent did not actually participate in the Isth Conference, 2011, held in Kyoto, Japan. His cousin brother attended the conference on his behalf by paying a registration fee and received a travel award of USD 1500 at the Isth, 2011.

(iv) The conference organizer wrongly mentioned the Respondent's sponsor as Sinha Institute of Medical Sciences & Technology, for which the organizers apologised by their email dated 19th July, 2011 addressed to the Respondent.

(v) The Central Civil Services (Conduct) Rules, 1964 ("Conduct Rules") allowed the receipt of monetary award from academic/scientific/literary institutions.

(vi) The DIPAS administration was aware of his participation as he had written an e-mail dated 30th April, 2011. His participation was displayed on the Isth, 2011 website and the receipt of award was also conveyed to the DIPAS.

(vii) As regards the enquiry, the Respondent pointed out that the witnesses summoned by the IA were not listed in the charge-sheet; he was denied additional documents by the IA, who asked irrelevant questions during the oral

enquiry; and a regular hearing was concluded by the IA without informing him. Despite the petition submitted by him on 23rd June, 2015, alleging bias of the IA, the departmental inquiry continued.

(viii) The recording of the evidence of the defence witnesses ("DWs") and the prosecution witnesses ("PWs") took place on the same day. There was thus a violation of the principles of natural justice.

The order of the DA

9. The DA considered the above reply and passed the impugned order dated 8th December, 2015. The DA held that the Respondent had not taken prior permission of the competent authority for the submission of the extract to the ISTH, 2011 and, thereby violated Rule 8 of the Conduct Rules. He had misled the authorities into issuing the NOC for visiting Japan between 25th and 28th July 2011, which coincided with the ISTH Conference. The acceptance of the cash award by his cousin brother on his behalf was still violative of Rules 13 and 14 of the Conduct Rules read with Government of India Decisions 2 and 3.

10. As far as the conduct of the enquiry itself was concerned, the DA held that it had been conducted "in a fair, unbiased and judicious manner". Only those documents that had been relied upon to prove the charges had been listed in the charge-sheet. The IA had the discretion under Rule 14 (15) of the CCS (CCA) Rules, 1965 to allow the PO to produce witnesses not included in the list given to the government servant along with the charge-sheet in the interests of justice. The two witnesses summoned by the PO as PWs were to establish the authenticity of the listed document i.e. the permission note dated 4th February, 2011, which had been disputed by the Respondent during regular hearings on 28th May, 2015 and 10th June, 2015, and to record their oral statements.

11. The DA noted that Dr. Praveen Vats, who handled the relevant file containing the permission note, and Dr. Lilly Ganju, one of the members of the Screening Committee which reviewed the abstracts, were examined on 25th June, 2015 as PWs. The daily order sheet of that date indicated that the said two witnesses were asked to authenticate the relevant files and confirm whether any conference brochure was attached to the file. They testified before the IA in the presence of the Respondent. The Respondent "for the reasons known to him, refused to cross-examine and also refused to sign the daily order sheets". It was further observed that there was no bar to summoning DWs and PWs on the same day. The daily order sheet of 25th June, 2015 showed that the DWs were separately examined by the IA in the forenoon in the presence of the Respondent. The two PWs were examined on the same day, but in the afternoon session separately, in the presence of the Respondent.

12. It was accordingly held by the DA that the principles of natural justice were "strictly observed during the hearing". Consequently, all the objections raised by the Respondent were negatived.

13. As regards the penalty, it was observed by the DA as under:

"After taking into consideration of the evidences and the relevant material, the President as the Competent Disciplinary Authority is of the view that the misconduct on the part of the CO, who is working in a scientific institution involved in Research and Development pertaining to nation's security, is grave and serious in nature requiring exemplary punishment. Considering the age and career of the CO and in the hope that the CO would not repeat such act of misconduct, the President, as the Competent Disciplinary Authority of the said Dr GA Khan, has taken a lenient view of aforesaid acts of misconduct.

7. Now therefore, the President, in exercise of the powers conferred on him under the provisions of the CCS (CCA) Rules, 1965, as the Competent Disciplinary Authority of the said Dr GA Khan, Sc 'D', DIPAS, hereby imposes on the Govt servant, the penalty of reduction to a lower time-scale of pay by three stages for a period of one year with effect from date of issue of this order which shall not affect his future increments and promotion."

Impugned order of the CAT

14. The Respondent assailed the above penalty order before the CAT by way of the aforementioned OA. Several grounds were raised by the Respondent in his aforementioned application, of which Grounds (a), (c) and (f) were accepted by the CAT.

15. There were two parts to Ground (a). The first part alleged non-approval of the Memorandum of Charge by the DA. On this first part, the CAT negated the plea of the Respondent after noting the decision of the Supreme Court in *Union of India v. B. V. Gopinath* (2014) 1 SCC 351.

16. The second part of Ground (a) related to non-consideration of the written statement of defence of the Respondent in accordance with law, prior to the appointment of the IA and the PO. The CAT referred to Rule 14 (5) (a) of the CCS (CCA) Rules, 1965 and a judgment dated 3rd April, 2017 passed by it in O.A. No. 2907/2013 interpreting the said Rule. The CAT also referred to the decision of the Supreme Court in *Chairman-cum-Managing Director, Coal India Limited v. Ananta Saha* (2011) 5 SCC 142 and upheld the contention of the Respondent.

17. As far as Ground (c) was concerned, on perusing the orders passed by the IA on 25th June, 2015, the CAT concluded that the observations of the IA in the report that the Respondent had refused to cross-examine and also refused to sign the daily order sheets were factually incorrect. This appeared to be a "deliberate attempt of the Enquiry Officer to justify his illegal action." The CAT concluded that the order of the DA was also therefore contrary to what appeared in the record of proceedings in the enquiry. Inasmuch as evidence of the PWs, who had not been offered for cross-examination, was relied upon in the enquiry report, it was held by the CAT that the enquiry stood vitiated for violation of

principles of natural justice.

18. The other ground urged by the Respondent and accepted by the CAT was Ground (f) regarding non-compliance of the mandatory requirement of Rule 14 (18) of the CCS (CCA Rules), 1965. In para 25 of the impugned order, the CAT found that the Respondent had not examined himself as a witness. It was obligatory for the IA under Rule 14 (18) of the CCS (CCA Rules), 1965 to provide the Respondent an opportunity to "lead his defence or put questions to him." The CAT referred to the decision of the Supreme Court in *Ministry of Finance v. S. B. Ramesh* (1998) 3 SCC 227 and of this Court dated 10th March, 2011 in *W.P.(C) 1760/2008 (Union of India through Secretary, Ministry of Information and Broadcasting v. Tarlok Singh)*. Reference was also made to the decision in *State Bank of Patiala v. S. K. Sharma* (1996) 3 SCC 364. For all of the above reasons the CAT by the impugned order quashed the order dated 8th December 2015 passed by the DA awarding Respondent the penalty as noted hereinbefore.

19. This Court has heard the submissions of Ms. Abha Malhotra, learned counsel appearing for the Petitioners and Mr. Sathish, learned counsel for the Respondent.

Order of this Court

20. At the outset, it requires to be noticed that when this petition was listed on 17th January, 2018, the following order was passed by this Court, even prior to issuance of notice in the petition:

"1. The petitioners including the DRDO has filed the present petition, assailing the judgment dated 20.07.2017 passed by the Central Administrative Tribunal in OA No.3685/2014 filed by the respondent who had prayed for quashing and setting aside the memorandums dated 21.04.2014 and 30.04.2014 and communication dated 22.09.2014 issued by the petitioner Nos.2 to 4 rejecting his representation, and informing him that consultation with CVC before issuance of a charge sheet is not required.

2. By the impugned judgment, the Tribunal has allowed the OA filed by the respondent and set aside the penalty order dated 08.12.2015 passed against him by the Disciplinary Authority imposing a penalty of reduction to a lower time scale of pay by three stages for a period of one year with effect from the date of issuances of the order, which shall not affect his future increments and promotion.

3. The genesis of the charge-sheet issued to the respondent, working on the post of Scientist 'D' in 'DIPAS', DRDO relates back to the year 2011, when he applied to the DRDO for travelling to Japan to meet his brother and instead, had attended an international conference where he received a travel award (Developing World Scientists Travel Award). The charges issued against the respondent were that he had neither obtained any prior permission to attend the conference, nor had he informed his employer about receiving the award during his visit to Japan. Another charge levelled against the respondent is that he had submitted an abstract to the International Society on thrombosis and

Homeostasis, without obtaining prior approval.

4. We have inquired from the learned counsel for the petitioners as to whether the research paper of the respondent has been used by the petitioners in any of their projects, in response to which she states on instructions that it is not so. The petitioners shall verify the said position and thereafter, an affidavit shall be filed stating inter alia as to whether the research paper prepared by the respondent and forwarded to the International Society in the year 2011, was put to use in any project by the petitioners and/or their Scientists and if so, the details thereof shall be furnished.

5. List on 07.05.2018."

Additional affidavit of the Petitioners

21. Pursuant to the above order, an additional affidavit has been filed by the Petitioners on 1st May, 2018 where it has been stated that the Respondent was merely one of the three principal investigators and that he had sent the abstracts without permission from the DIPAS "to receive the personal benefits out of the abstract." Apart from reiterating the charges against the Respondent, it is further mentioned that during the pendency of the present litigation, he had submitted a resignation to the Raksha Mantri directly "without following the proper channel of communication, which is a violation of Rule 3 (1) (iii) of CCS Conduct Rules 1964."

22. The Court asked Ms. Abha Malhotra, the learned counsel for the Petitioners, whether the additional affidavit answered the query raised by the Court in its order dated 17th January, 2018, namely, "whether the research papers prepared by the respondent and forwarded to the International Society in the year 2011, was put to use in any project by the petitioners and/or their Scientists and if so, the details thereof shall be furnished." Ms. Malhotra was candid in stating that the said additional affidavit did not answer the above query.

23. Mr. Satish, learned counsel for the Respondent, on his part, while defending the impugned order of the CAT, stated that the Respondent had indeed submitted his resignation and wished to be relieved at the earliest opportunity, as he has faced sufficient harassment at the hands of the Petitioners. The scope of the present petition does not permit examination of the above request of the Respondent. It is for the Petitioners to take a decision on such request in accordance with law.

Ground (a)

24. In relation to the CAT's findings on Ground (a) in the impugned order, learned counsel for the Petitioners pointed out that there was no merit in the contention of the present Respondent that the requisite approvals of the DA had not been obtained.

25. The above submissions overlooks the fact that the CAT has agreed with the

Petitioners on this point. As already noted, there were two parts to Ground (a), and it was in respect of the second part, relating to the non-consideration of the written statement of defence of the Respondent prior to the appointment of the IA, that the CAT found that there was a violation of the mandatory requirement of Rule 14 (5) (a) of the CCS (CCA) Rules, 1965. The CAT has, as noted hereinbefore, relied on its own decision in O.A. No. 2907/2013 (Dr. Sahdeva Singh v. Union of India through its Secretary, Ministry of Agriculture) to hold that the initial appointment of the IA and the PO was itself vitiated.

26. On this aspect, there were no submissions made by learned counsel for the Petitioners. In Ground A (d) of the writ petition, it is merely stated that "the inquiry committee duly considered the written statement of the Respondent in accordance with Rule 14 (5) (a) of the CCS (CCA) Rules", without actually indicating as to how the said Rule had been complied with. The Petitioners have failed to demonstrate that the order dated 5th June, 2014 appointing the IA and the order dated 20th March, 2015 appointing the PO, were issued after considering the Respondent's written statement of defence to the memorandum of charges.

Ground (c)

27. Turning now to Ground (c), the Court was taken through the daily order sheets of the proceedings, as recorded by the EO. In particular, the Court has perused the record of the proceedings of 25th June, 2015. It is plain that the six DWs were first examined followed by the PWs. The daily order sheet records:

"The charged officer Dr. GA Khan, Sc 'D' raised an objection regarding the inclusion of prosecution witnesses, the list of which were not provided in the charged sheet. It is against the CCS Conduct Rules."

28. It is therefore plain that the Respondent at the earliest opportunity did raise an objection regarding the inclusion of the PWs, whose names were not furnished to him along with the charge-sheet.

29. The order sheets of the proceedings before the IA show that, the statements of the DWs are recorded in a "question-answer" form with the questions put by the IA to the witness. None of them appears to have been offered for cross-examination by the PO. As far as the two PWs are concerned i.e. Dr. Lilly Ganju and Dr. Praveen Vats, again, their statement is in the "question-answer" form with all questions put to each of them by the IA. Again, these PWs were not offered for cross-examination by the Respondent.

30. The proceedings show that below the statements of the PWs there are indeed signatures of the Respondent with the date of 25th June, 2015 and with the remarks: "signed in protest; no list of PWs were part of my charge-sheet served to me." Therefore, the statement, both in the enquiry report as well as in the order dated 8th December, 2015 of the DA, that the Respondent had refused to sign the order sheets is plainly erroneous and contrary to the record. Further,

there is nothing in the proceedings to indicate that the PWs were offered for cross-examination, and that the Respondent refused to cross-examine them. Therefore, the statement to this effect, both in the enquiry report and the impugned order of the DA, is again contrary to the record.

31. The CAT is right in its conclusion that there was a violation of the principles of natural justice by not offering the PWs for cross-examination. There was also no justification put forth for examining the DWs in the first half of the day and the PWs thereafter. This too was in violation of principles of natural justice. It is necessary for the charged officer to know what the PWs have to say and to be given an opportunity to cross-examine them before being called upon to lead his evidence.

Ground (f)

32. At the outset, it must be noticed that in para 30 of the impugned order, the CAT quashed the penalty order passed by the DA on the basis of Grounds (a), (c) and "(e)". The reference to ground (e) is obviously a typographical error, because on perusal of the impugned order, it is plain that the Respondent's contention in Ground (e) has in fact been negated, while the contention in Ground (f) has been accepted. Therefore, the CAT interfered with the penalty order on the basis of its findings in respect of grounds (a), (c) and (f).

33. As regards the violation of Rule 14 (18) of the CCS (CCA) Rules, which constitutes Ground (f), learned counsel for the Petitioners was unable to demonstrate that the said rule had in fact been complied with. In other words, there is nothing to show that the IA provided the Respondent an opportunity to "lead his defence or put questions to him."

34. In *State Bank of Patiala v. S. K. Sharma* (supra), the Supreme Court summarized the legal position as regards violation of mandatory rules of procedure, which would result in violation of principles of natural justice as under:

"33. We may summarise the principles emerging from the above discussion. (These are by no means intended to be exhaustive and are evolved keeping in view the context of disciplinary enquiries and orders of punishment imposed by an employer upon the employee):

(1) An order passed imposing a punishment on an employee consequent upon a disciplinary/ departmental enquiry in violation of the rules/regulations/statutory provisions governing such enquiries should not be set aside automatically. The Court or the Tribunal should enquire whether (a) the provision violated is of a substantive nature or (b) whether it is procedural in character.

(2) A substantive provision has normally to be complied with as explained hereinbefore and the theory of substantial compliance or the test of prejudice would not be applicable in such a case.

(3) In the case of violation of a procedural provision, the position is this:

procedural provisions are generally meant for affording a reasonable and adequate opportunity to the delinquent officer/employee. They are, generally speaking, conceived in his interest. Violation of any and every procedural provision cannot be said to automatically vitiate the enquiry held or order passed. Except cases falling under-"no notice", "no opportunity" and "no hearing" categories, the complaint of violation of procedural provision should be examined from the point of view of prejudice, viz., whether such violation has prejudiced the delinquent officer/employee in defending himself properly and effectively. If it is found that he has been so prejudiced, appropriate orders have to be made to repair and remedy the prejudice including setting aside the enquiry and/or the order of punishment. If no prejudice is established to have resulted therefrom, it is obvious, no interference is called for. In this connection, it may be remembered that there may be certain procedural provisions which are of a fundamental character, whose violation is by itself proof of prejudice. The Court may not insist on proof of prejudice in such cases. As explained in the body of the judgment, take a case where there is a provision expressly providing that after the evidence of the employer/government is over, the employee shall be given an opportunity to lead defence in his evidence, and in a given case, the enquiry officer does not give that opportunity in spite of the delinquent officer/employee asking for it. The prejudice is self-evident. No proof of prejudice as such need be called for in such a case. To repeat, the test is one of prejudice, i.e., whether the person has received a fair hearing considering all things. Now, this very aspect can also be looked at from the point of view of directory and mandatory provisions, if one is so inclined. The principle stated under (4) herein below is only another way of looking at the same aspect as is dealt with herein and not a different or distinct principle.

(4)(a) In the case of a procedural provision which is not of a mandatory character, the complaint of violation has to be examined from the standpoint of substantial compliance. Be that as it may, the order passed in violation of such a provision can be set aside only where such violation has occasioned prejudice to the delinquent employee.

(b) In the case of violation of a procedural provision, which is of a mandatory character, it has to be ascertained whether the provision is conceived in the interest of the person proceeded against or in public interest. If it is found to be the former, then it must be seen whether the delinquent officer has waived the said requirement, either expressly or by his conduct. If he is found to have waived it, then the order of punishment cannot be set aside on the ground of the said violation. If, on the other hand, it is found that the delinquent officer/employee has not waived it or that the provision could not be waived by him, then the Court or Tribunal should make appropriate directions' (include the setting aside of the order of punishment), keeping in mind the approach adopted by the Constitution Bench in B. Karunakar (1993) 4 SCC 727. The ultimate test is always the same, viz., test of prejudice or the test of fair hearing, as it may be called.

(5) Where the enquiry is not governed by any rules/regulations/statutory provisions and the only obligation is to observe the principles of natural justice - or, for that matter, wherever such principles are held to be implied by the very nature and impact of the order/action - the Court or the Tribunal should make a distinction between a total violation of natural justice (rule of audi alteram partem) and violation of a facet of the said rule, as explained in the body of the judgment. In other words, a distinction must be made between "no opportunity" and no adequate opportunity, i.e., between "no notice"/"no hearing" and "no fair hearing, (a) In the case of former, the order passed would undoubtedly be invalid (one may call it Void' or a nullity if one chooses to). In such cases, normally, liberty will be reserved for the Authority to take proceedings afresh according to law, i.e., in accordance with the said rule (audi alteram partem). (b) But in the latter case, the effect of violation (of a facet of the rule of audi alteram partem) has to be examined from the standpoint of prejudice; in other words, what the Court or Tribunal has to see is whether in the totality of the circumstances, the delinquent officer/employee did or did not have a fair hearing and the orders to be made shall depend upon the answer to the said query. It is made clear that this principle (No. 5) does not apply in the case of rule against bias, the test in which behalf are laid down elsewhere.

(6) While applying the rule of audi alteram partem (the primary principle of natural justice) the Court/Tribunal/Authority must always bear in mind the ultimate and overriding objective underlying the said rule, viz., to ensure a fair hearing and to ensure that there is no failure of justice. It is this objective which should guide them in applying the rule to varying situations that arise before them.

(7) There may be situations where the interests of State or public interest may call for a curtailing of the rule of audi alteram partem. In such situations, the Court may have to balance public/State interest with the requirement of natural justice and arrive at an appropriate decision."

35. Interestingly, in the same decision, it was held that the provisions of Rule 14 (18) of the CCS (CCA) Rules were mandatory in nature. The CAT was, therefore, right in concluding that since a substantive provision had been violated, "the theory of substantial compliance or the test of prejudice would not be applicable in such a case." The Court finds that no legal error has been committed by the CAT in holding the enquiry in the present case to be in violation of the mandatory provisions of the CCS (CCA) Rules and the Conduct Rules.

36. Lastly, it was submitted by Ms. Malhotra, learned counsel for the Petitioners that the CAT was in error in observing that the DA should have taken a lenient view "on account of the excellent scientific research of the applicant which brought laurels not only to the individually for him but to the country as a whole". She submitted that in the impugned order dated 8th December, 2015 in the concluding portion, a lenient view had indeed been taken while inflicting a relatively minor penalty on the Respondent.

37. The above observation by the CAT is not to be understood as a comment on the penalty imposed upon the Respondent, but on the overall attitude of the superior officers of the Respondent with regard to the relatively insignificant lapses of the Respondent. When the CAT found the entire procedure adopted to be in violation of principles of natural justice, the only result that could be reached was to invalidate the impugned penalty order.

Conclusion

38. Consequently, the Court finds that no grounds are made out to interfere with the impugned order of the CAT. The petition is accordingly dismissed. The interim order is vacated and the pending applications are disposed of. No order as to costs.