

(2011) 12 DEL CK 0038

In the Delhi High Court

Case No : Writ Petition (C) 8812 of 2011

UOI and Others

APPELLANT

Vs

Prakash Chandra and Others

RESPONDENT

Date of Decision : 19-12-2011

Acts Referred:

Citation : (2011) 12 DEL CK 0038

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : Anuj Aggarwal with Mr. Gaurav Khanna, for UOI, for the Appellant;
Naresh Kaushik, for R-2 UPSC, for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J.—The petition impugns the order dated 4th May, 2011 of the Central Administrative Tribunal, Principal Bench allowing OA No. 2340/2010 preferred by the respondent No. 1. The said OA was preferred assailing the order dated 16th March, 2010 of the Disciplinary Authority, acting under order of and in the name of President of India, withdrawing on a permanent basis 10% of the monthly pension sanctioned to the respondent No. 1.

2. The respondent No. 1 retired as Executive Engineer (Civil) CPWD on 31st January, 1996. He was, on 26th March, 1998 i.e. after more than two years of his retirement, charged with having committed certain irregularities, while functioning as Executive Engineer PWD Division No. V from 1st June 1992 to 1st June 1995, in preparing estimates, placing work orders and making payments for these works. An Inquiring Authority was appointed, which submitted its report dated 8th September, 2005 holding three of the four charges to be partly proved and the fourth charge to be not proved. The Disciplinary Authority in consultation with the UPSC concluded that the charges against the respondent related mainly to non-compliance of standardized CPWD Code contained in CPWD MANUALS, in estimation, execution, test checks; that the errors in the final bills had resulted in arbitration; however since the charges were only partly proved and giving

benefit of doubt to the respondent, the Disciplinary Authority imposed the punishment of withdrawal of 10% monthly pension on permanent basis.

3. The Tribunal in the detailed impugned order and on the basis of the report of the Inquiring Authority and the advice of the UPSC has found that several mitigating circumstances pointed out in the advice and the inquiry report itself completely watered down the charges against the respondent; that there was a great deal of urgency about completing the work in a very short period so as to conclude the same before the assembly elections then due; that the prices of the items used in the works were expected to go up during the period of elections; that the petitioner had failed to show that other divisions carried out the works at lesser cost; that the respondent had only one day to make corrections before the close of financial year; that the responsibility of sending the estimates to the Chief Electoral Officer was of someone else. It was thus concluded that the charge against the respondent of misconduct could not be sustained and at best it could be said that he was negligent in not personally considering the revised estimates being sent to the Chief Electoral Officer. The Tribunal relying on *Union of India (UOI) and Others Vs. J. Ahmed*, held that mere negligence could not be called misconduct. Accordingly it was held that the advice of the UPSC was flawed and the Disciplinary Authority had not considered all the said pleas raised in the representation of the respondent and the order was thus a non-speaking on the said aspects.

4. We are unable to find any perversity in the order of the Tribunal for us to entertain this petition in exercise of our powers of judicial review. The petition is accordingly dismissed. No order as to costs.