

PUBLIC GRIEVANCES COMMISSION
GOVT. OF NATIONAL CAPITAL TERRITORY OF DELHI
I.P. Estate (near ITO), Vikas Bhawan, M-Block, New Delhi-110110
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Order under Para 2(B) of the PGC Resolution No F.4/14/94-AR dated
25.9.97

Date of hearing: 27.11.2019

Complainant : Sh. Suraj Bhan – Present.

Respondent : The Director,
Dte.of Education, GNCTD.
Through Sh. Kismat Prasad,
S.O.(Admn.)(NW-A)

Grievance No : Sh. Parmod Kumar, Asstt.Director(Vigilance)
GNCT of Delhi - Present.
PGC/2018/A.II/Edn./23/

1. Brief facts of the complaint

1.1 Shri Suraj Bhan has filed a grievance petition before Public Grievances Commission, aggrieved by non-payment of non-functional scale w.e.f. 1.1.1996.

2. Facts emerged during the proceedings.

2.1 Shri Pramod Kumar, Asstt.Director(Vigilance), GNCT of Delhi filed a report/comments and the same has been taken on record. It states that :-

“Sh. Suraj Bhan, Ad-hoc DANICS(now retired) was chargesheeted under rule 14 of the CCS (CCA) Rules, 1965 vide memorandum dated 17.7.2006. He submitted his defence reply dated 27.12.2006. The Inquiring Authority and the Presenting Officer were appointed vide orders daed 1.3.2007. Lateron, another Inquiring Authority was appointed vide order dated 27.3.2008. Again, vide order dated 25.7.2008, another Inquiring Authority was appointed in the matter.

Sh.A.K. Paitandy, IAS(Retd.)/Inquiring Authority submitted his inquiry report dated 17.5.2012.

The Inquiry Report was examined in Dte.of Vigilance and found that the same was not technically consistent and therefore with the approval of Competent Authority, the same was remitted under Rule 15(1) of the CCS(CCA) Rules, 1965 vide order dated 7.11.2012.

Again, vide order dated 23.7.2013, another Inquiring Authority was appointed in the matter due to sudden demise of Sh.A.K. Paitandy, former Inquiring Authority. Again, vide order dated 19.5.2014, another Inquiring Authority was appointed in the matter.

The Inquiring Authority submitted his inquiry report dated 11.8.2014.

The Inquiry Report was accepted by the Competent Authority and a copy of the same was served upon Sh.Suraj Bhan vide memorandum dated 16.10.2014 for his representation, if any.

Instead of submitting his representation against the inquiry report, Sh.Suraj Bhan filed an OA 470/2015 for quashing the chargesheet as well as inquiry report.

Sh.Suraj Bhan was again directed vide memorandum dated 21.4.2016 to submit his reply against the inquiry report.

Sh. Suraj Bhan submitted his representation datd 06.5.2016.

After obtaining the comments of the Revenue Department on the representation of Sh. Suraj Bhan, the matter was placed before the Hon'ble Lt.Governor, Delhi, for recommendation before referring the case to MHA for passing Presidential Order. Hon'ble L.G., Delhi gave his recommendation on 29.08.2016.

The disciplinary proceedings case of Sh. Suraj Bhan was submitted to MHA vide letter dated 13.12.2016 for passing Presidential order. The MHA pointed out some deficiencies and directed to submit the case after rectification. The case was finally submitted to MHA, after rectifying the deficiencies from the concerned departments/authorities, vide letter dated 28.2.2018 for passing Presidential order.

The MHA submitted the case to UPSC vide letter dated 03.07.2018 for tendering the advice.

The UPSC tendered its advice vide memorandum dated 04.04.2019 and the same was forwarded by the MHA vide memorandum dated 24.04.2019 for serving the same upon Sh. Suraj Bhan for his representation. A copy of UPSC advice along with MHA's memorandum was sent to Sh. Suraj Bhan for his representation vide this Directorate's memornadum dated 26.04.2019.

Instead of submitting his representation against the UPSC's advice, he sought extension of time, two times, to file his representation. He again submitted a letter/request dated 25.07.2019 requesting therein to provide a copy of the Inquiry Report of Sh.A.K.Paitandy, former Inquiring Authority, whose inquiry report was not accepted by the Competent Authority as the same was technically inconsistent.

The MHA vide letter dated 14.08.2019 informed Sh.Suraj Bhan that his request for providing a copy of inquiry report dated 17.05.2012 cannot be accepted at this stage and he was granted a last and final opportunity of 10 days more time to submit his representation against the advice of UPSC. But, Sh.Suraj Bhan again failed to submit his representation in time.

*A representation dated 27.09.2019 of Sh.Suraj Bhan was received in Dte.of Vigilance on 03.10.2019 and the same was forwarded to MHA vide letter dated 10.10.2019 for further necessary action. However, MHA issued an order dated 16.10.2019 imposing the penalty of **"withholding of 10% (ten percent) of monthly pension otherwise admissible to him for a period of two (02) years"** upon Shri Suraj Bhan and was served to him. Hence, it is clear that the disciplinary proceedings case against Sh. Suraj Bhan was dealt with the rules and procedure and all the opportunities were afforded to him as per rules.*

Further, copy of inquiry report is given to the Charged Officer after accepting the same by the Competent Authority and in the instant case, copy of Inquiry Report which is being requested by Sh. Suraj Bhan was not accepted by the Competent Authority being technically inconsistent and the same was remitted to remove the deficiencies.

Further, direction of the Commission to Sh.Suraj Bhan to file a representation which he has been asked to do, is not as per rules as the penalty order in the disciplinary proceedings case has already been passed by the MHA. The role of disciplinary authority is a quasi-judicial and the Government servant has the option to file an appeal/revision/review, as the case may be, as per relevant rules, against the said penalty order. The disciplinary proceedings case is decided as per CCS(CCA) Rules, 1965 and after retirement the same is decided under CCS(Pension)Rules, 1972."

2.2 Another Action Taken Report has been filed on behalf of Dy.Director of Education, District North West-A stating that "Shri Suraj Bhan, ADE(retired)

was charge sheeted vide memorandum dated 19.8.2003 u/r 14 of CCS(CCA) Rules, 1965. The charges were dropped vide MHA's order dated 25.9.2012.

In another matter, he was chargesheeted u/r 14 of CCS(CCA) Rules, 1965 vide charge memorandum dated 17.7.2006. The matter was referred to MHA, GOI for passing Presidential Order u/r 9 of CCS(Pension) Rules, 1972. The MHA vide memorandum dated 24.04.2019 forwarded the UPSC's advice vide memorandum dated 04.04.2019 for service upon the officer. The same was served upon him and Sh.Suraj Bhan vide his representation dated 28.05.2019 has sought further time of at least 15 days to submit his representation on the UPSC's advice. A copy of the aforesaid representation has been sent to MHA vide letter dated 10.06.2019.

The vigilance status same as mentioned above in Sr.No.1 & 2 in respect of Sh. Suraj Bhan, ADE(Retd.) was again received from Asstt.Director(Vig.), GNCT of Delhi, vide letter dated 24.06.2019.

Further, that a penalty of withholding of 10% (Ten percent) of monthly pension otherwise admissible to him for a period of two (02) years has been imposed upon the CO, Shri Suraj Bhan, Ad-hoc DANICS(Retd.)/ the then SDM/Patel Nagar.

A letter dated 13.11.2019 was forwarded to ADE(GOC),ADE(Vig.),Old Sectt. and Asstt.Director, DOV, GNCT of Delhi, for issue of VCR at HQ & DOV level in respect of Sh. Suraj Bhan, Ad-hoc DANICS to release the monthly pension of the complainant as ordered along with all the arrears. Further, no clear cut vigilance has been received from DOV till date."

2.2 Shri Parmod Kumar, Assistant Director, Directorate of Vigilance, GNCT assured that Vigilance Clearance Report will be provided to Dte.of Education within a two days time for releasing of monthly pension alongwith all the arrears by the Dte.of Education, GNCTD.

2.3 The Commission do not agree with the stand taken by the Asstt.Director(Vigilance), GNCTD for not providing copy of the Inquiry Report being technically inconsistent. The Commission is of the view that the same should be provided to the complainant/charged official in the interest of justice to defend his case properly before the appropriate authority.

3. Directions :

3.1 The Commission advises the following:-

- a) Assistant Director(Vigilance), GNCTD shall provide the Vigilance Clearance Report to Dte.of Education without further delay, as assured by him, for release of monthly pension as well arrears in respect of the complainant, as per rules.
- b) Dy.Director of Education, District North West-A, shall take immediate action for release of monthly pension and outstanding dues of the complainant after receiving the Vigilance Clearance Report from Dte.of Vigilance. DDE, District North West-A shall also coordinate personally with Dte.of Vigilance and thereafter shall ensure that all the outstanding payments are released in close coordination with the concerned Pay & Accounts Officer. The whole exercise should be completed in one month's time.
- c) The complainant is advised to follow up his case with regard to ***withholding of 10% (ten percent) of monthly pension otherwise admissible to him for a period of two (02) years***, with the appropriate authority as per rules. He is also advised to inform the Commission as and when he receives all his outstanding payments from the Dte.of Education, GNCTD.
- d) The Pay & Accounts Officer No.IX, GNCTD, is advised to take up the case of release of arrears in respect of the complainant on top priority and ensure that the same is released without further delay.

3.2 With the above observations, the case stands disposed of in the Commission with the liberty to the complainant to approach the Commission if his outstanding payments are not released by the respondent department within one month's time.

(MRS. MADHU SHARAN)
MEMBER(PGC)

No.PGC/2018/A.II/Edn./23/

Dated:

Copy to :-

1. The Director, Directorate of Education, Govt. of NCT of Delhi, Old Secretariat, Delhi-110054.
2. The Director(Vigilance), Dte.of Vigilance, Govt.of NCT of Delhi, Level-4, C-Wing, Delhi Secretariat, New Delhi-110002.
3. The Dy.Director of Education (HQ)/Nodal Officer, Govt. of NCT of Delhi, Old Secretariat, Delhi-110054, to look into the matter personally for its prompt disposal.

4. Pay & Accounts Officer-IX, PAO-IX, Old Secretariat, Delhi-110054.
5. Dy. Director of Education, District North West-A, GNCT of Delhi, BL-Block, Shalimar Bagh, Delhi-110088.
6. Asstt. Director of Education (Admn./Vigilance), Directorate of Education, Govt. of NCT of Delhi, Distt. North West-A, BL-Block, Shalimar Bagh, Delhi-110088.
7. Shri Suraj Bhan.

