

*“No carelessness until there is a cure Wear mask,
follow physical distancing & maintain hand hygiene”.*

PUBLIC GRIEVANCES COMMISSION

GOVT. OF NATIONAL CAPITAL TERRITORY OF DELHI

M-Block , I.P. Estate (near ITO) Vikas Bhawan: New Delhi-2

Order under Para 2(B) of the PGC Resolution No. F.4/14/94-AR/dt. 25.9.97

Date of hearing: 22.07.2021

Complainant : Sh. Anil Kumar Sharma

Respondent : Principal Secretary,
Department of Law, Justice &
Legislative Affairs, GNCT of Delhi
through
Shri Amitabh Joshi,
Dy. Secretary (Services).

Shri Nayan Mokashi, S.O.,
Law Department.

Shri Chandresh Gupta,
Dte. of Vigilance - Present.

Grievance No. : PGC/2020/L&J/01

1. Brief facts of the complaint

- 1.1 Sh. Anil Kumar Sharma who has retired as Dy. Secretary from the Law Department of Delhi Government on 30.04.2014 has filed a grievance in PGC, regarding non payment

of interest on delayed payment of Death cum Retirement Gratuity (DCRG) and 3rd MACP which was due to him w.e.f. year 2008 by Law Department and Services Department.

- 1.2 He stated that at the time of retirement i.e. on 30.04.2014, his DCRG and some other pensionary benefits were withheld by the Law Department although, no chargesheet in any case was pending against him at that time. Later a chargesheet was filed in a Court of Law sometime in Sept. – Oct 2014. This case was contested by him in the Court and the Hon'ble Court acquitted him of all charges, **vide their order dated 30.03.2016**. Further, the Delhi Government decided not to file any appeal in the interest of natural justice. As a result, he became entitled for pensionary benefits kept pending by the Law Department. However, the said DCRG was released by the Law Department vide their sanction order dated 09.03.2020 and that too was paid without interest on delayed payment of the said DCRG. Therefore, the complainant has filed grievance in PGC for redressal of grievance.

2. Facts emerged during the proceedings.

- 2.1 Shri Amitabh Joshi, Dy. Secretary (Services) was present in the hearing and filed an Action Taken Report dated 22.07.2021 and the same is taken on record stating that:-

“Para 18 of Annexure of DOPT, GOI O.M dated 19.05.2009 and OM dated 22.10.2019 (copy enclosed) provides that “in the matter of disciplinary/penalty proceedings, grant of benefit under the MACPs shall be subject to rules governing normal promotion. Such cases shall therefore be regulated under the provisions of the CCS (CCA) Rules, 1965 and instruction there under.

Para 7(g) of DoPT, Govt. of India OM dated 28.04.2014 (copy enclosed) provides that “in assessing the suitability of the Officer on whom a penalty has been imposed, the DPC will take into account the circumstances leading to the imposition of the penalty and decide whether in the light of the general service record of the officer and the fact of the imposition of the penalty, the officer should be considered suitable for promotion. The DPC, after due consideration, has authority to assess the officer as ‘unfit’ for promotion. However, even where the DPC considers that despite the penalty the officer is suitable for promotion, the officer will be actually promoted only after the currency of the penalty is over (para 13 of DoPT OM dated 10.04.1989).”

Earlier, the Screening Committee in its meeting dated 30.09.2020 deferred the 3rd MACP case of Sh. Anil Kumar Sharma, Adhoc DANICS (Retd.) with the direction to re-submit the case after obtaining details of disciplinary proceedings in respect of said officer from the Administrative Department including copy of charge sheet, inquiry report, completion of penalty certificate clearly indicating the date of completion of penalty imposed on the Officer vide Vigilance Department's Corrigendum letter dated 29.01.2016.

Law Department, GNCT of Delhi provided requisite documents vide letter dated 30.12.2020. Accordingly, the 3rd MACP case of Sh. Anil Kumar Sharma, Adhoc DANICS (Retd.) was placed before the Screening Committee in its meeting dated 18.03.2021. Screening Committee noticed in its meeting dated 18.03.2021 (copy of relevant pages enclosed) that the cause of events leading to initiation of disciplinary proceeding vide memo dated 31.10.2011 against Sh. Anil Kumar Sharma pertains to July 2003 while Sh. Anil Kumar Sharma was working as BDO (South) from 29.09.2003 to 13.03.2008.

Screening Committee observed further that on the recommendation of CBI for Regular Departmental Action (RDA) against Sh. Anil Kumar Sharma, the then Block Development Officer (South) for dereliction of duties in case No. RC/S18/2006/E/009 dated 10.10.2006, disciplinary proceedings were initiated against the Officer vide Memo dated 31.10.2011 which culminated into imposition of penalty vide Hon'ble Lt. Governor, Delhi order dated 14.11.2012.

Information from Administrative Department revealed that the pay of Sh. Anil Kumar Sharma was refixed by Law Department vide Order dated 31.03.2016 with retrospective effect i.e. from 13.11.2012 in consultation with Accounts functionaries in pursuance of penalty imposed by Hon'ble Lt. Governor vide Order dated 14.11.2012 and corrigendum dated 29.01.2016. After completion of Penalty, the pay of Sh. Anil Kumar Sharma was restored w.e.f. 30.04.2014.

The Screening Committee considered the documents and information provided by Administrative Department regarding 'pay fixation' and 'Completion of Penalty Certificate' & vigilance status communicated by Dte. of Vigilance (DOV) and held that the cause of events leading to initiation of disciplinary proceeding vide memo dated 31.10.2011 against Sh. Anil Kumar Sharma on the recommendation of CBI in Case No. RC/S18/2006/E/009 dated 10.10.2006, pertains to July 2003 i.e. well before the date of

eligibility for 3rd MACP benefits.

The proceedings were underway and currency of penalty imposed on Sh. Anil Kumar Sharma, Adhoc DANICS (Retd.) completed on 30.04.2014, therefore, the Screening Committee recommended Sh. Anil Kumar Sharma as 'FIT' for grant of 3rd MACP benefits w..e.f. 30.04.2014 in terms of Para 18 of Annexure-I of DoPT, Govt. of India OM dated 19.05.2009, 02.11.2012 and 28.04.2014.

The recommendations of Screening Committee meeting dated 18.03.2021 was accepted/approved by Secretary (Services), being competent authority in terms of Para 5 of Annexure-I of DOPT, Govt. of India O.M. dated 19.05.2009. After acceptance/approval of Secretary (Services), MACP order has been issued on 29.06.2021 (Copy enclosed)."

- 2.2 Shri Nayan Mokashi, S.O., Department of Law was present in the hearing and filed an Action Taken Report dated 22.07.2021 and the same is taken on record stating that:-

"In compliance of the Services Department (ACP Cell) Order No.154 dated 29.06.2021, this department has ordered grant of 3rd MACP in the Grade Pay of Rs.6600/- to Sh. Anil Kumar Sharma, Dy. Secretary Retired (Copy of the order is being enclosed).

Further, as desired, the copy of the Proforma for grant of MACP sent to the Services Department as well as the copies of the vigilance report provided by the Vigilance Department, GNCT Delhi is being enclosed for information please."

- 2.3 Shri Chandresh Gupta from Dte. of Vigilance was present in the hearing and filed a Status Report dated 22.07.2021 and the same is taken on record stating that:-

"The vigilance status for the year 2008 and on date of retirement i.e. 30.04.2014 of Sh. Anil Kumar Sharma, Adhoc DANICS (Retd.) as under:

During the year 2008

CBI, New Delhi vide letter dated 20.11.2007 in case RC SI82006E0009-CBI-EOU.IV had recommended initiation of regular departmental action for minor penalties against Sh. Anil Kumar Sharma, the then Block Development Officer (South) and others. Thus, the departmental proceedings were contemplated against him.

At the time of retirement of complainant (i.e. on 30.04.2014)

CBI, New Delhi vide letter dated 20.11.2007 in case RC SI82006E0009-CBI-

EOU.IV had recommended initiation of regular departmental action for minor penalties against Sh. Anil Kumar Sharma, the then Block Development Officer (South) and others. He was chargesheeted in this matter vide Charge Memorandum dated 31.10.2011 by the Hon'ble Lt. Governor, Delhi. The Hon'ble Lt. Governor, Delhi imposed a penalty of reduction by one stage in the time scale of pay for the period of two years without cumulative effect, with further direction that the Charged Officer will not earn increments of pay during the period of reduction and that on the expiry of this period, reduction will not have the effect of postponing his future increments of pay upon Sh. Anil Kumar Sharma, vide order No.F.7(01)/2008/DOV/10707/2089-90 dated 14.11.2012 with immediate effect.

In another matter, a case FIR No.01/10 dated 08.01.2010 was registered by the ACB u/s 7/13 POC Act and 120 B IPC. The competent authority i.e. Hon'ble Lt. Governor, Delhi granted prosecution sanction vide order dated 01.06.2012 against Sh. Anil Kumar Sharma, Adhoc DANICS/the then SDM (Seelampur).

Further, a copy of vigilance status issued vide letter dated 02.04.2019 is also enclosed.”

2.4 The complainant present in the hearing submitted that the Services Department's Order No. 154 dated 29.06.2021 (vide which, the order for grant of 3rd MACP benefits has been issued to him) is not correct as the **3rd MACP is due to him w.e.f. year 2008**, whereas, in the Order dated 29.06.2021, **he has been granted 3rd MACP benefits w.e.f. 30.04.2014**. Further, the CBI has registered case against him in the year 2006, however, he was informed about the penalty imposed on him and the chargesheet by the Dte. of Vigilance, GNCTD in the year 2011 i.e. after lapse of five years, which shows negligence on the part of the Law department and Vigilance Department, GNCT of Delhi.

3. **Directions**

3.1 The department has redressed all the grievance of the complainant except one grievance related to granting 3rd MACP benefits **w.e.f. year 2008** (i.e. the year when the 3rd MACP is due in respect of the complainant). However, with respect to the issue of grant of 3rd MACP benefits w.e.f. year 2008, The Services Department's representative vide their Action Taken Report dated 22.07.2021 submitted that DoPT, Govt. of India OM dated 28.04.2014 provides that **in assessing the suitability of the**

Officer against whom a penalty has been imposed, the officer will be actually promoted only after the currency of the penalty is over (para 13 of DoPT OM dated 10.04.1989).

In the present case, Sh. Anil Kumar Sharma, complainant, was granted 3rd MACP benefits w.e.f. date of his retirement 30.04.2014 i.e. after the currency of the penalty is over, in accordance with the above cited DoPT, Govt. of India OM dated 28.04.2014. The Commission is satisfied with the action taken by the department and **the matter is closed in the Commission.** However, the complainant is free to approach other forums for redressal of the grievance in case he is not satisfied with the outcome of the present case filed in the Commission.

(SMT. MADHU SHARAN)
MEMBER (PGC)

No. PGC/2020/L&J/01

Dated :

Copy to:

1. The Additional Chief Secretary (Services), GNCT of Delhi, 7th Level, B-Wing, Delhi Secretariat, I.P. Estate, New Delhi – 110002.
2. The Pr. Secretary (Vigilance), GNCT of Delhi, 4th Level, C-Wing, Delhi Secretariat, I.P. Estate, New Delhi – 110002.
3. The Pr. Secretary (Law), GNCT of Delhi, 8th Level, C-Wing, Delhi Secretariat, I.P. Estate, New Delhi – 110002.
4. Sh. Anil Kumar Sharma