



2025:DHC:3982-DB



\$~43

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 13864/2006

MANISH KUMAR SACHAR

.....Petitioner

Through: Mr. Ankur Chhibber, Ms. Rajul Jain, Ms. Rhea Verma and Ms. Poorvi Rewalia, Advs.

versus

U.O.I & ORS

.....Respondents

Through: Mr. Balendu Shekhar, CGSC with Mr. Krishna Chaitanya and Mr. Rajkumar Maurya, Advs.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

02.05.2025

%

C. HARI SHANKAR, J.

1. The issue in controversy in this writ petition is as to whether the punishment of withholding of two increments in the time scale of pay for a period of two years without cumulative effect could be sustained.

2. Mr Ankur Chhibber, learned Counsel for the petitioner, has restricted his submission to the plea that the impugned order of punishment stands vitiated as it was issued on the basis of an advice received from the Union Public Service Commission¹, no copy of which was provided to his client.

¹ "UPSC" hereinafter



3. We have heard learned Counsel on this issue at some length.
4. Mr. Ankur Chhibber, learned Counsel for the petitioner placed reliance on the judgment of the Supreme Court in the case of *UOI v R.P. Singh*² whereas Mr. Balendu Shekhar, learned CGSC placed reliance on the decision in *UOI v T.V. Patel*³. Thereafter, Mr. Ankur Chhibber pointed out that prior to the decision in *T.V. Patel*, the principle in *R.P. Singh* had earlier been enunciated in *S.N. Narula v UOI*⁴. As such, applying the law laid down in para 35 of the judgment of the Supreme Court in *Union Territory of Ladakh v Jammu and Kashmir National Conference*⁵, the decision in *S.N. Narula* would have precedence.
5. We have dealt with an identical issue in our decision in the case of *Ministry of Railways v Mohan Singh Sandhu*⁶ in which we have held that, given the position of law enunciated in *Union Territory of Ladakh*, the decision in *S.N. Narula* would rule the roost, so long as it is not reversed by any higher Court. The relevant paragraphs, from *Mohan Singh Sandhu*, may be reproduced thus:
- “7. Certain decisions hold that the advice is required to be furnished, whereas others take a contrary view. The matter has, therefore, been referred by the Supreme Court to a larger Bench by order dated 4 July 2017 in *UOI v Anup Kumar Sinha*⁷.
8. Though, of the decisions referred to in the order of reference, the earlier decision of the Supreme Court in *UOI v T.V. Patel* held that the copy of the UPSC advice need not be given to

² (2014) 7 SCC 340

³ (2007) 4 SCC 785

⁴ (2011) 4 SCC 591

⁵ 2023 SCC OnLine SC 1140

⁶ 2024 SCC OnLine Del 9599

⁷ Order dated 4 July 2017 in SLP (C) 17430/2017



the charged officer, and the latter decision in *UOI v R.P. Singh* held to the contrary, learned Counsel for the parties are *ad idem* that, even before these decisions, the Supreme Court had held, in *S.N. Narula v UOI*, that the UPSC report had necessarily to be provided to the delinquent employee. The decision in *S. N. Narula* is brief and may be reproduced, *in extenso*, thus:

“1. Leave granted. The appellant was initially appointed as Station Master in the Northern Railways in 1955 and during the relevant time when he was Senior Commercial Manager a chargesheet was issued to the appellant and disciplinary proceedings were initiated against him, and the enquiry officer filed report holding that Charge 5 was partly proved and Charge 7 proved. As regards other charges he was exonerated. After considering the report of the enquiry officer, the disciplinary authority proposed a punishment suggesting a suitable cut in the pension and the appellant was not heard on this proposal.

2. Thereafter, the proceedings were sent for opinion of the Union Public Service Commission and the Union Public Service Commission gave an opinion to the effect that the appellant's pension shall be reduced to the minimum and he shall not be granted any gratuity. The disciplinary authority accepted the proposal of the Union Public Service Commission and imposed the said punishment.

3. It is to be noticed that the advisory opinion of the Union Public Service Commission was not communicated to the appellant before he was heard by the disciplinary authority. The same was communicated to the appellant along with final order passed in the matter by the disciplinary authority.

4. The appellant filed OA No. 1154 of 2002 before the Central Administrative Tribunal, New Delhi and the Tribunal held that there was violation of the principles of natural justice and the following direction was issued:

“We are of the considered opinion that this order is a nonspeaking one and as such we are of the view that the same cannot be sustained and is liable to be quashed. Accordingly, we quash the impugned order and remand the case back to the disciplinary authority to pass a detailed reasoned and speaking order within a period of 3 months from the date of receipt of a copy of this order in accordance with



instructions and law on the subject.”

5. This order was challenged by the Union of India by way of writ petition before the High Court of Delhi and by the impugned judgment the High Court interfered with that order. The writ petition was partly allowed and it was directed that the matter be again considered by the Tribunal. Against that order the appellant has come up in appeal by way of special leave petition.

6. We heard the learned counsel for the appellant and the learned counsel for the respondent. It is submitted by the counsel for the appellant that the report of the Union Public Service Commission was not communicated to the appellant before the final order was passed. Therefore, the appellant was unable to make an effective representation before the disciplinary authority as regards the punishment imposed.

7. *We find that the stand taken by the Central Administrative Tribunal was correct and the High Court was not justified in interfering with the order.*

Therefore, we set aside the judgment of the Division Bench of the High Court and direct that the disciplinary proceedings against the appellant be finally disposed of in accordance with the direction given by the Tribunal in para 6 of the order. The appellant may submit a representation within two weeks to the disciplinary authority and we make it clear that the matter shall be finally disposed of by the disciplinary authority within a period of 3 months thereafter.

8. The appeal is disposed of.”

(Emphasis supplied)

9. Mr. Manjeet Singh Reen, learned Counsel for the respondent, has drawn our attention to a recent decision of the Supreme Court in *Union Territory of Ladakh v Jammu & Kashmir National Conference*, para 35 of which is eloquent on the approach to be adopted by the courts when faced with conflicting decisions of the Supreme Court or a situation in which the matter stands referred by the Supreme Court to a larger Bench:

“35. We are seeing before us judgments and orders by High Courts not deciding cases on the ground that the leading judgment of this Court on this subject is either referred to a larger Bench or a review petition relating thereto is



pending. We have also come across examples of High Courts refusing deference to judgments of this Court on the score that a later Coordinate Bench has doubted its correctness. *In this regard, we lay down the position in law. We make it absolutely clear that the High Courts will proceed to decide matters on the basis of the law as it stands. It is not open, unless specifically directed by this Court, to await an outcome of a reference or a review petition, as the case may be. It is also not open to a High Court to refuse to follow a judgment by stating that it has been doubted by a later Coordinate Bench. In any case, when faced with conflicting judgments by Benches of equal strength of this Court, it is the earlier one which is to be followed by the High Courts, as held by a 5-Judge Bench in **National Insurance Company Limited v Pranay Sethi**⁸. The High Courts, of course, will do so with careful regard to the facts and circumstances of the case before it.”*

(Emphasis supplied)

10. Thus, the view expressed by the Supreme Court is that, even when, owing to conflicting decisions rendered by it, the Supreme court has referred an issue to larger Bench, courts lower in the judicial hierarchy should not adjourn matters awaiting the outcome of the larger Bench, but should follow the law laid down in the earlier decision. In so holding, the Supreme Court has relied on an earlier constitution bench pronouncement in **Pranay Sethi**.

11. Following the above enunciation of law, this Court is bound to follow the law laid down by the Supreme Court in **S.N. Narula** which, as per submissions of learned counsel, appears to be the earliest decision on the point, on whether the advice of the UPSC was or was not required to be provided to the delinquent employee.

12. As **S. N. Narula** holds that the advice of the UPSC was required to be provided to the delinquent officer and this is the view expressed by the Tribunal in the impugned judgment as well as, we find no reason to interfere with the decision under challenge. It is accordingly upheld in its entirety.”

6. We may also note that the decision in **T. V. Patel** was held in **UOI v S.K. Kapoor**⁹ to be *per incuriam*.

⁸ (2017) 16 SCC 680

⁹ (2011) 4 SCC 589



2025:DHC:3982-DB



7. In that view of the matter, following our decision in *Mohan Singh Sandhu*, this writ petition is allowed with consequential benefits with no orders as to costs.

8. This would not, however, preclude the respondents from proceeding in accordance with law, if so advised.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

MAY 2, 2025/gs

Click here to check corrigendum, if any