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

Reserved on: 16.12.2025
Pronounced on: 12.01.2026

\+ **W.P.(C) 4366/2014**

UNION OF INDIA ..... Petitioner
Through: Mr. Ruchir Mishra, Mr. Sanjiv Kumar Saxena, Mr. Mukesh Kumar Tiwari, Ms. Reba Jena Mishra and Ms. Poonam Shukla, Advs.

versus

VED PAL SINGH & ANR. ..... Respondents
Through: Mr. A.K. Trivedi, Adv.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE MADHU JAIN

J U D G M E N T

NAVIN CHAWLA, J.

1. This petition has been filed by the petitioner, challenging the Order dated 03.12.2013 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. 1020/2012, titled ***Ved Pal Singh v. Union of India & Anr.,*** whereby the learned Tribunal allowed the said O.A. filed by the respondent no.1 herein with the following directions:

> "*23. In the above facts and circumstances of the case, we allow this OA. Consequently, we quash and set aside the impugned order dated 29.11.2011, charge sheet dated 13.12.2002, Inquiry Officer's report dated 29.11.2005. The*

respondents shall release the entire withheld monthly pension, gratuity and any other pensionary benefits to the Applicant with interest at GPF rate. The aforesaid directions shall be complied with, within a period of 2 months from the date of receipt of a copy of this order."

BRIEF FACTS OF THE CASE:

2. To give a brief background of the facts giving rise to the present petition, the respondent no.1 joined the Delhi Administration on 16.11.1965. He was promoted and appointed to Grade-I of the Delhi Administrative Subordinate Services (DASS) on a regular basis on 28.06.1980, which was a Gazetted Group 'B' post. Thereafter, under Rule 25(3) of the Delhi, Andaman & Nicobar Islands, Lakshadweep, Daman & Diu, and Dadra & Nagar Haveli Civil Service Rules, (DANICS Rules) 1971, he was promoted and appointed on *ad-hoc* basis against a duty post in the DANICS Civil Service, *vide* Order No. F.30/18/89-SI dated 22.01.1990. The respondent no.1 was subsequently regularised in the said post *vide* Notification No. 14016/8/2000-UTS-II dated 21.08.2001, issued by the Ministry of Home Affairs, Government of India, pursuant to his selection by the Departmental Promotion Committee with the approval of the Union Public Service Commission (UPSC). The respondent no.1 superannuated on 31.12.2002 from the post of Assistant Registrar in the office of the Registrar, Cooperative Societies, Government of Delhi.

3. In the year 1996, a Memorandum dated 30.05.1996 was issued to him alleging irregular issuance of 26 ST-1 forms and 355 ST-35

forms to M/s Pilco Systems, and 25 ST-1 forms and 40 ST-35 forms to M/s Krishna Stores, allegedly without ensuring adequate safeguards for Government revenue.

4. The respondent no.1 replied to the said Memorandum *vide* representation dated 10.06.1996, explaining that the ST-1 forms allegedly issued to M/s Pilco Systems on 28.09.1987 and 29.07.1988, and the ST-35 forms allegedly issued on 29.07.1988, 19.08.1988, and 30.09.1988, were issued strictly in accordance with the applicable rules and under written orders of the then Sales Tax Officer (STO), Shri P. R. Meena, and not on the respondent's own direction. The respondent no. 1 further claimed that the dealers concerned were regular dealers who had been issued such forms earlier as well. The respondent no.1 also pointed out that, at the relevant time, he was overburdened with work due to frequent changes of Sales Tax Officers (STOs) and was required to handle both 'A' and 'B' category cases, in addition to the alphabetical division of work.

5. It is the case of the respondent no.1 that after submission of his reply, the authorities allegedly found the explanation satisfactory and took no further action for over six years, during which period the respondent no.1 was granted all due promotions.

6. It is the case of the respondent no.1 that, however, after an inordinate delay of about 14–15 years from the alleged incidents, and merely a few days prior to his retirement, a major penalty charge-sheet was issued by the Chief Secretary, Government of NCT of Delhi, *vide* Memorandum dated 13.12.2002. It was alleged therein that during the years 1987 and 1988, while working as Assistant Sales Tax Officer

(ASTO) in the erstwhile Ward No. 23 (New Ward No. 54) of the Sales Tax Department, the respondent no.1 had issued ST-1 and ST-35 forms in quick succession to M/s Pilco Systems and M/s Krishna Stores without getting their transactions verified through lower functionaries and without invoking Section 18 of the Delhi Sales Tax Act, 1975 for enhancement of sureties, thereby allegedly causing loss to Government revenue.

7. It is the case of the respondent no.1 that immediately upon receipt of the charge-sheet, he denied the allegations *vide* letter dated 20.12.2002 and sought supply of the listed documents, including the applications filed by the dealers for statutory forms, ST-II accounts, relevant instructions/orders, and inspection of the dealers' files. He also objected to the initiation of disciplinary proceedings after an unexplained delay of nearly 15 years, particularly on the eve of his retirement. Despite repeated reminders dated 26.12.2002, 20.01.2003, 03.04.2003, and 17.04.2003, the documents supplied were illegible, smudged, and blackened, rendering them unusable for the purpose of defence, and clear and legible copies were never supplied to him.

8. It is further the case of the respondent no.1 that he was subjected to discrimination, as no action was taken against other officers who had similarly issued statutory forms to the same dealers, including Shri P.R. Meena, the then STO, on whose written directions the impugned forms were issued by the respondent no.1 in good faith.

9. It is the case of the respondent no.1 that the inordinate and unexplained delay in issuing the charge-sheet caused grave and irreparable prejudice to him. Due to the passage of time, it became

impossible to recall the exact instructions, prevailing practices, and circumstances under which the forms were issued. Relevant records and instructions were no longer available, and contemporaneous officers were also unavailable to testify, thereby seriously impairing the respondent's defence.

10. It is the case of the respondent no.1 that he consistently maintained that the issuance of statutory forms was strictly in accordance with Rule 8 of the Delhi Sales Tax Rules and Circular Nos. 10 of 1985–86 and 18 of 1988–89, which permitted the issuance of forms for past as well as future transactions, and that deductible sales were clearly defined under Sections 4, 5, 7, and 8 of the Delhi Sales Tax Act, 1975.

11. Aggrieved by the issuance of the charge-sheet, the respondent no.1 filed O.A. No. 1768/2003. The said O.A. was disposed of by the learned Tribunal by its order dated 11.11.2003, granting liberty to the respondent no.1 to make a representation on the issue of prejudice caused by delay to the Disciplinary Authority. In compliance thereof, the respondent no.1 submitted representations dated 03.03.2004 to the Chief Secretary and the Joint Secretary (UT–Delhi), which remained unanswered.

12. Thereafter, the respondent no.1 filed another O.A., being O.A. No. 1174/2005 before the learned Tribunal, which was dismissed *vide* Order dated 05.04.2005, with liberty to raise all issues during the disciplinary proceedings and before appropriate forums thereafter.

13. The respondent no.1 challenged the said order by filing W.P.(C) No. 12808/2005, which was disposed of *vide* judgment dated

25.08.2005, with following directions:

> *"We are satisfied that the petitioner should be given an opportunity to cross-examine witnesses of the prosecution and examine himself in the proceeding as a defence witness. At the same time, we do not desire that there should be any delay in completing the departmental proceeding. We are informed that in the ex-parte proceeding conducted, inquiry report has already been submitted by the inquiry officer to the Disciplinary Authority without affording a proper opportunity to the petitioner to cross examine the prosecution witnesses and also to examine himself as defence witness. In that view of the matter, the inquiry report which is submitted is directed to be recalled and after cross examination of the prosecution witnesses and examination of the petitioner as defence witness, a fresh inquiry report on the basis of the record and the evidence adduced shall be submitted by the Inquiry Officer. Thereafter, it shall be open to the Disciplinary Authority to proceed in the matter in accordance with law. The petitioner shall have the liberty to examine the record of the disciplinary proceeding on 8th September, 2005. We direct that the prosecution witnesses shall beamed available before the inquiry officer for cross examination by the petitioner or his defence assistant on 12th September, 2005 and on 13th September, 2005, the petitioner shall examine himself as defence witness. Thereafter, the inquiry officer, upon considering of the evidence on record, shall submit his report in accordance with law.*
>
> *In terms of the aforesaid order, the Writ Petition stands disposed of. Copies of this order be issued dasti to counsel appearing for the parties under the signatures of the Court Master of this Court.*
>
> *So far as the question of delay in initiation of departmental proceeding is concerned, we have heard learned counsel for the petitioner.*

> *We find no reason to take a different view than what has been taken by the Tribunal. The said contention, therefore, is held to be without merit. However, the issue relating to the promotion of the petitioner, left open by the learned Tribunal in its impugned order, is not being examined by us.*
> *The same, as has been done by the learned Tribunal, is kept open."*

14. Pursuant to the judgment dated 25.08.2005, the matter was remitted to the Inquiry Officer for further inquiry.

15. It is the case of the respondent no.1 that the inquiry was conducted in a biased and arbitrary manner, in violation of Rule 14 of the CCS (CCA) Rules, particularly Rule 14 (18), as the respondent no.1 was neither examined nor afforded an opportunity to explain the circumstances appearing against him.

16. The Inquiry Officer submitted his report dated 02.11.2005, which was communicated to the respondent no.1 on 29.11.2005. The respondent no.1, thereafter, submitted his representation dated 19.12.2005 against the Inquiry Report.

17. The case file was referred to the Central Vigilance Commission (CVC) for its second-stage advice, and *vide* Office Memorandum dated 16.01.2009, the CVC advised the imposition of a penalty by way of a suitable cut in the pension of the respondent no.1.

18. Thereafter, the matter was referred to the UPSC for its advice. *Vide* its advice dated 18.11.2011, the UPSC *inter alia* stated that the charges established against the respondent no.1 constituted grave misconduct and that the ends of justice would be met if a penalty of withholding 50% of the monthly pension otherwise admissible to the

respondent no. 1 was imposed on him on a permanent basis. The UPSC further advised that the gratuity admissible to the respondent no. 1 should also be permanently withheld.

19. It is the case of the respondent no.1 that although the Disciplinary Authority obtained the advice of the UPSC, a copy thereof was not supplied to him, nor was he afforded an opportunity to submit his response. It is further alleged that the Disciplinary Authority, solely relying upon the UPSC's advice and without independent application of mind to the respondent no.1 submissions, passed the penalty order dated 29.11.2011, holding the charge to be partly proved and imposing the aforesaid penalty.

20. The respondent no.1 challenged the penalty order before the learned Tribunal by filing the present O.A., which was allowed *vide* the Impugned Order.

21. Aggrieved thereby, the petitioner has filed the present petition.

SUBMISSIONS OF THE LEARNED COUNSEL ON BEHALF OF THE PETITIONER:

22. The learned counsel for the petitioner submits that, consequent upon the retirement of the respondent no.1 on superannuation on 31.12.2002, the disciplinary proceedings already initiated against him were deemed to have continued in terms of Rule 9 of the CCS (Pension) Rules, 1972. He submits that the charge-sheet under Rule 14 of the CCS (CCA) Rules, 1965 had been issued to the respondent no. 1 in respect of serious lapses committed by respondent no. 1 while he was posted in the Sales Tax Department. He submits that respondent

no. 1 failed to invoke Section 18 of the Delhi Sales Tax Act, 1975 to safeguard government revenue, as he issued statutory forms in quick succession to the dealer. He submits that the Inquiry Officer's analysis in paragraph IX(p) of the inquiry report records that the respondent no. 1 ought to have prescribed an appropriate amount of additional surety, keeping in view the nature and scale of the dealer's business and the amount of tax likely to be saved by the dealer with the aid of the statutory forms issued to the dealer. He submits that the Inquiry Officer conducted the inquiry proceedings strictly in accordance with the provisions of the CCS (CCA) Rules, 1965 as well as the applicable instructions and rules, and duly considered every aspect of the case on record, as is evident from the findings recorded in the inquiry report. He submits that the contention of the respondent no. 1 that the Inquiry Officer conducted the inquiry in a biased manner and without following the prescribed rules is incorrect and not borne out from the record. He submits that as per the order sheets dated 12–13.09.2005 of the inquiry proceedings, the respondent no. 1 was afforded ample opportunity for self-examination as a defence witness and was duly examined and cross-examined in accordance with the statements and cross-examination of Shri V. P. Singh, which are available on record.

23. The learned counsel for the petitioner submits that the learned Tribunal failed to appreciate the observations of the UPSC. He submits that the Impugned Order does not accord due consideration or weight to the examination of the case by the petitioner/the department, the report of the Inquiry Officer, the advice of the CVC, and the statutory advice of the UPSC. He further submits that the impugned

order is perverse, arbitrary, unjustified, and bad in law, inasmuch as the learned Tribunal failed to appreciate the inquiry report, the statements of witnesses, the evidence on record, and the facts and circumstances of the case.

24. He submits that the prosecution witnesses unequivocally deposed during the inquiry proceedings that the certification and issuance of statutory forms are not carried out by the ASTO on behalf of the STO. Once the forms are sanctioned and delivered to the dealer, entries are made by the Record Keeper on separate form-issuance sheets, which are thereafter signed by the form-issuing authority. He further submits that it was established that the respondent no. 1 never indicated on the issuance sheets that the statutory forms were issued on the directions of the STO, and that such a quasi-judicial function cannot be exercised on behalf of another authority. He submits that the contention of the respondent no. 1 that he issued a large number of forms on the directions of the STO cannot be accepted. He further submits that the respondent no. 1 was required to exercise due restraint, particularly since the dealers were newly registered. He further submits that the inquiry established, through the depositions of prosecution witnesses and assessment records, that a disproportionately large number of statutory forms were issued for substantial amounts, while the corresponding turnovers declared by the dealers were significantly underreported, and in some cases, records of purchasers were not available. He submits that despite these red flags, the respondent no. 1 failed to invoke the provisions of the Delhi Sales Tax Act, 1975, including Section 18, to safeguard

government revenue, and issued statutory forms in quick succession without ordering surveys to verify the bona fides of the dealers. He submits that this failure enabled the misuse of the statutory forms and resulted in serious prejudice to government revenue.

25. He submits that the entire basis of the reasoning adopted by the learned Tribunal, that since no actual pecuniary loss was proved to have been caused to the Government, Rule 9 of the CCS (Pension) Rules could not have been invoked against the respondent no.1, is wholly flawed and not sustainable in law.

26. He submits that, therefore, the present petition deserves to be allowed.

SUBMISSIONS OF THE LEARNED COUNSEL ON BEHALF OF THE RESPONDENT NO.1:

27. On the other hand, the learned counsel for the respondent no.1 submits that the charge-sheet dated 13.12.2002 was issued after an inordinate and wholly unexplained delay of nearly 14–15 years from the alleged incidents of 1987–1988. The charge-sheet was served merely days before the respondent's retirement on 31.12.2002, causing grave and irreparable prejudice to his defence. Owing to the passage of time, the respondent no.1 was unable to recall the precise circumstances, instructions, and prevailing practices governing the issuance of statutory forms. He submits that the relevant records were no longer available, and contemporaneous officers could not be traced, thereby seriously impairing his right to effectively defend himself. He further submits that the inquiry proceedings were conducted in gross violation of the principles of natural justice and Rule 14(18) of the

CCS (CCA) Rules, 1965. He further submits that the respondent no.1 was neither properly examined nor afforded a fair opportunity to explain the circumstances appearing against him. Despite the directions issued by this Court on 25.08.2005, the inquiry was conducted in a biased, arbitrary, and mechanical manner.

28. The learned counsel further submits that despite repeated requests and reminders dated 26.12.2002, 20.01.2003, 03.04.2003, and 17.04.2003, the respondent no.1 was never supplied with clear and legible copies of the documents relied upon by the department. He submits that the documents furnished were illegible, smudged, and blackened, rendering them unusable for preparing an effective defence, in clear violation of the respondent's right to a fair hearing.

29. He submits that the respondent no.1 was subjected to discriminatory and selective treatment, as no disciplinary action was initiated against other officers who had similarly issued statutory forms to the same dealers. He further submits that notably, Shri P.R. Meena, the then STO, on whose written directions the impugned forms were issued by the respondent no.1 in good faith and in discharge of official duties, was not proceeded against, thereby vitiating the entire proceedings. He further submits that the respondent no.1 consistently maintained that the statutory forms were issued strictly in accordance with Rule 8 of the Delhi Sales Tax Rules and Circular Nos. 10 of 1985-1986 and 18 of 1988-1989, which expressly permitted issuance of forms for both past and future transactions. He submits that the dealers concerned were regular dealers who had been issued such forms earlier as well, and that under

the prevailing rules, there was no requirement for prior verification of transactions by lower functionaries before issuance of the forms.

30. He submitted that although the Disciplinary Authority obtained the advice of the UPSC dated 18.11.2011, a copy thereof was never supplied to the respondent no.1, nor was he afforded any opportunity to submit his response. He submits that this constitutes a serious procedural irregularity and a clear violation of the principles of natural justice, as the respondent no.1 was entitled to know and respond to the material relied upon for imposing the penalty. In support, he places reliance on the judgment of the Supreme Court in ***Union of India & Ors. v. S.K. Kapoor,*** (2011) 4 SCC 589.

31. The learned counsel submits that the Disciplinary Authority mechanically adopted the UPSC's advice without any independent application of mind to the facts of the case or to the detailed representations submitted by the respondent no.1. He submits that the penalty Order dated 29.11.2011 reflects complete absence of consideration of proportionality or mitigating circumstances. Even assuming the charges to be established, the penalty of withholding 50% of the monthly pension on a permanent basis and permanent withholding of the entire gratuity is grossly disproportionate, harsh, and shockingly unjust. He submits that the respondent no.1 had rendered more than 37 years of unblemished service and was granted promotions even after the alleged irregularities came to light in 1996. No monetary loss to the government was ever quantified or established. He submits that the authorities were aware of the allegations as early as 1996, when a Memorandum dated 30.05.1996

was issued, to which the respondent no.1 submitted a detailed explanation on 10.06.1996. No action was taken for over six years thereafter, during which period the respondent no.1 was granted all due promotions, including promotion to the DANICS Grade-II. He submits that the sudden revival of stale charges on the eve of retirement, without any fresh material or justification, clearly smacks of *mala fides*.

32. He submits that the inquiry failed to establish any *mala fide* intent, personal gain, or corruption on the part of the respondent no.1. At the highest, the allegations pertain to alleged procedural irregularities in a context where the respondent no.1 was overburdened with work due to frequent changes of STOs and was handling multiple categories of cases. He submits that the statutory forms were issued on the written directions of the then STO, and that the respondent no.1 acted *bona fidely* in discharge of his official duties. He submits that in terms of Rule 9 of the CCS (Pension) Rules, pension can be withheld only where allegations of 'grave misconduct or negligence' are proved. He submits that in the present case, this yardstick has not been met. In support, he places reliance on the judgment of the Supreme Court in ***D.V. Kapoor v. Union of India & Ors.,*** (1990) 4 SCC 314; and of this Court in ***Union of India & Ors. v. T.P. Venugopal***, 2007 SCC OnLine Del 1498.

33. The learned counsel for the respondent no.1 submits that, in view of the aforesaid facts and the settled legal position, the Impugned Order passed by the learned Tribunal does not suffer from any perversity, either on facts or in law, and therefore, the Writ Petition

deserves to be dismissed with costs in favour of the respondent no.1.

ANALYSIS AND FINDINGS:

34. We have considered the submissions advanced by the learned counsels for the parties and have perused the material on record.

35. Before we proceed further, we would note that in the Impugned Order, the learned Tribunal rejected the plea of the respondent no. 1 that there was an inordinate delay in the issuance of the charge-sheet and that, since the respondent no. 1 was discharging quasi-judicial functions, disciplinary proceedings could not have been initiated against him. The learned Tribunal also rejected the submission of the respondent no. 1 that he was subjected to discrimination inasmuch as the proceedings against Mr. P.R. Meena, the then STO, had been dropped by the petitioner, whereas the respondent no.1 was punished. Relying upon the judgment of this Court in ***Union of India & Anr. v. Biswabijoyee Panigarihi & Anr.***, 2013:DHC:3321-DB, the learned Tribunal further held that it was not necessary for the Disciplinary Authority to furnish a copy of the opinion received from the UPSC to the respondent no. 1 prior to the issuance of the penalty order, and that the same was required to be supplied along with the penalty order.

38. There is no challenge to the above findings of the learned Tribunal by the respondent no.1.

39. However, despite the above findings, the learned Tribunal, in the Impugned Order, further held that there was no finding of 'grave

misconduct or negligence' against the respondent no. 1 by the Disciplinary Authority and, on that basis, proceeded to quash the charge-sheet, the report of the Inquiry Officer, and the order passed by the Disciplinary Authority. The learned Tribunal also directed that the withheld pension and gratuity be released to the respondent no. 1 along with the interest at the GPF rates. We quote from the Impugned Order as under:

> *"22. It is an admitted fact that the Applicant was charge sheeted on 13.12.2002 and he retired from service on 31.12.2002 and the disciplinary proceedings continued under Rule 9(2)(a) of the CCS (Pension) Rules, 1972. The charge against the Applicant was that while he was functioning as ASTO in Ward 23, he "committed misconduct in as much as he had issued 260 ST-I forms and 355 ST-35 forms to M/s Pilco Systems, and 25 ST-I and 40 ST-35 to M/s Krishna Stores in quick succession. He failed to keep a check over the nefarious activities of both the dealers by getting the transactions of the dealers (as shown in ST-II A/cs) verified through lower functionaries. Shri Singh also failed to invoke provisions of Sec 18 of DST Act, 1976 by enhancing the sureties of both the dealers in view of huge purchases indicated in ST-II A/cs furnished by them. Loss of revenue caused to the Sales Tax Department by M/s Pilco systems & M/s Krishna Stores are to the tune of Rs.30 crores and Rs.29 crores respectively". The conclusion arrived at by the Enquiry Officer in his report is that the charge against Shri V.P. Singh exhibiting negligence, lack of integrity in issuing statutory forms to both the dealers in quick succession causing heavy loss of revenue to the Government is proved. In fact, the specific allegation against tine Applicant was that the loss of Rs.29 crores was caused by the Applicant. However, the findings was*

that charge against the Applicant exhibiting negligence, lack of integrity in issuing statutory forms to both the dealers in quick succession causing heavy loss of revenue to the Government is proved. At least, there should have been some evidence to that effect from any of the prosecution witnesses. However, in the entire report there is no evidence on behalf of the witnesses that any financial loss had occurred. Thus, when the crux of the charge was that on account of misconduct or negligence of the Applicant there was a loss of Rs.29 crores and if the same was not proved, it cannot be concluded that the charge has been proved. Even the Disciplinary Authority has also stated that the charge proved was only partly and the exact revenue loss could not be accounted. Therefore, in absence of any allegation that the Applicant was guilty of grave misconduct or negligence during the period of service, and if the President has not found to that extent as provided in Rule 9(1) of the CCS Pension) Rules, 1972, no pension or gratuity of the Applicant could have been withheld.

23. In the above facts and circumstances of the case, we allow this OA. Consequently, we quash and set aside the impugned order dated 29.11.2011, charge sheet dated 13.12.2002, Inquiry Officer's report dated 29.11.2005. The respondents shall release the entire withheld monthly pension, gratuity and any other pensionary benefits to the Applicant with interest at GPF rate. The aforesaid directions shall be complied with, within a period of 2 months from the date of receipt of a copy of this order."

40. We are unable to sustain the above finding of the learned Tribunal.

41. The respondent no. 1 was issued the following Article of

Charge on 13.12.2002:

> *"While functioning as ASTO in old ward-23 (new ward-54), Shri V.P. Singh committed misconduct in as much as he had issued 260 ST-I forms and 355 ST-35 forms to M/s Pilco Systems, and 25 ST-I and 40 ST-35 to M/s Krishna Stores in quick succession. He failed to keep a check over the nefarious activities of both the dealers by getting the transactions of the dealers (as shown in ST-II A/cs) verified through lower functionaries. Shri Singh also failed to invoke provisions of Sec 18 of DST Act, 1976 by enhancing the sureties of both the dealers in view of huge purchases indicated in ST-II A/cs furnished by them. Loss of revenue caused to the Sales Tax Department by M/s Pilco systems & M/s Krishna Stores are to the tune of Rs.30 crores and Rs.29 crores respectively.*
>
> *Thus, Shri V.P. Singh by his above acts, exhibited negligence, lack of integrity in issuing statutory forms to both the dealers in quick succession causing heavy loss of revenue to the Sales Tax Department and thus acted in a manner which is unbecoming of a Govt. servant, thereby violating the provisions of Rule 3 of CCS (Conduct) Rules, 1964."*

42. On the basis of the Inquiry Report, the advice of the CVC and the UPSC, the Disciplinary Authority, *vide* Order dated 29.11.2011, imposing the punishment of permanent forfeiture of 50% of the pension, as well as the gratuity payable to the respondent no. 1, observed as under:

> *"9. And whereas/on examination of the inquiry report, the statement of witnesses, evidence on record and facts &circumstances of the case, the following points emerged:-*
> *(i) The prosecution witnesses clearly deposed in the inquiry that certification of issuance of forms is not done by ASTO on*

behalf of the STO. After forms are sanctioned and delivered to the dealer, the Record Keeper marks entry thereof on separate forms issuing sheets and the form issuing authority puts his signature on the sheets.

(ii) C.O. has never indicated on the issuance sheets that the statutory forms were issued on the directions of the STO. Further, such quasi judicial function cannot be done on behalf of another authority. The contention of the Charged Officer that he issued large number of forms on the directions of the STO on number of occasions cannot be accepted/believed. The C.O. should have exercised restraints in issuing forms keeping in mind that these dealers were newly registered.

(iii) It is clearly established during inquiry by the deposition of prosecution witnesses that survey is carried out when forms receiving dealer is using those forms for very heavy purchases. From the assessment orders, it is very much clear that very large number of forms have been issued for very big amounts whereas the amount as reflected by the dealers are under shown. No records of purchasers are also available in respect of some forms.

(iv) The Charged Officer has failed to invoke Delhi Sales Tax Act, 1975, to safeguard the revenue as he has issued statutory forms in quick succession to the dealer. Thus, the C.O. had issued these forms without safeguarding the government revenue. Had he invoked Section 18 of the Delhi Sales Tax Act. 1975 and had he ordered STI survey to check the bonafide dealers, the misuse of statutory forms issued by the C.O. could have been noticed/avoided.

10. And whereas, while rendering their advice, the UPSC has observed that the C.O. had not resorted to any precaution to safeguard the revenue interest of the Government. The form issuing sheets are bearing his signatures as a token of his order/approval for issue of a particular number of forms to these dealers. The C.O.

appeared to be in close connivance with dealers as immediately after the forms were issued the dealers stopped responding to the assessment notices issued by the subsequent assessing authorities and were not available in the market. Though exact loss of revenue caused to the Sales Tax Department vis-à-vis the charge against the C.O. could not be computed, the charges against the C.O. for exhibiting negligence and lack of integrity in issuing statutory forms to both the dealers in quick succession causing heavy loss of revenue stand proved. The charge is as such, partly proved as the total loss could not be computed.

11. And whereas, in view of the foregoing, it is clearly established that the C.O. had issued large number of statutory forms to both the dealers without safeguarding the revenue of the government by not enhancing sureties of both the dealers in view of heavy purchase/transactions made by them. He had also failed to verify their activities through lower functionaries (i.e.,STI). Since, the exact revenue loss could not be computed, though loss to the tune of Rs.30 crores and Rs.29.00 crores respectively are indicated in the chargesheet, the charge is partly proved.

12. And now, therefore, after considering the enquiry report, the evidence on record and the facts and circumstance of the case the President, by virtue of power vested under Rule 9 of CCS(Pension) Rules, 1972 has decided in agreement with the advice of UPSC that the charge is partly proved and grave and that the ends of justice would be met in this case if the penalty of withholding of 50% of the monthly pension otherwise admissible to Shri V. P. Singh, DANICS (Retd.) i.e. the Charged Officer is imposed on him on a permanent basis and further the gratuity admissible to him should also be withheld permanently and orders accordingly."

43. From a reading of the above, it is apparent that the Disciplinary Authority, on the basis of the Inquiry Officer's report as well as the advice received from the UPSC, found that the respondent no. 1 had issued a large number of statutory forms to the two dealers without safeguarding the revenue of the Government, inasmuch as he failed to enhance the sureties of these dealers despite the heavy purchase/transactions undertaken by them. He also failed to verify the activities of these dealers through the lower functionaries. The Disciplinary Authority, however, further observed that the exact revenue loss attributable to the acts/inaction of the respondent no. 1 could not be computed, although losses of Rs. 30 crores and Rs. 29 crores, respectively, in respect of the two dealers had been indicated. It was only on account of the inability to ascertain the exact loss caused that the charge was held to be partially proved. The learned Tribunal has not interfered with the aforesaid findings and observations of the Disciplinary Authority. In such a scenario, we find no justification in the conclusion of the learned Tribunal that respondent no. 1 was not held guilty of 'grave misconduct or negligence'.

44. In ***Union of India & Ors. v. B. Dev,*** (1998) 7 SCC 691, the Supreme Court held that the contention that Rule 9 of the CCS (Pension) Rules cannot be invoked, even in cases of grave misconduct, unless pecuniary loss is caused to the Government, is unsustainable. We quote from the judgment as under:

> *"11. Rule 9 gives to the President the right of — (1) withholding or withdrawing a pension or part thereof, (2) either permanently or for a*

> *specified period, and (3) ordering recovery from a pension of the whole or part of any pecuniary loss caused to the Government. This power can be exercised if, in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of his service. The power, therefore, can be exercised in all cases where the pensioner is found guilty of grave misconduct or negligence during the period of his service. One of the powers of the President is to recover from pension, in a case where any pecuniary loss is caused to the Government, that loss. This is an independent power in addition to the power of withdrawing or withholding pension. The contention of the respondent, therefore, that Rule 9 cannot be invoked even in cases of grave misconduct unless pecuniary loss is caused to the Government, is unsustainable."*

45. The Supreme Court further held that the definition of 'grave misconduct' under Explanation (b) to Rule 8 of the CCS (Pension) Rules is not exhaustive.

46. In the present case, the respondent no. 1 has been found guilty of 'grave negligence' if not of 'grave misconduct'. Merely because the exact quantum of loss caused to the Government could not be proved in the Inquiry would not relieve the respondent no. 1 of such finding of the 'grave misconduct or negligence' and the consequent withholding of his pension.

47. In ***B. Dev*** (supra), the Supreme Court also examined the decision of ***D.V. Kapoor*** (supra) and distinguished the same by observing as under:

> *"13. Our attention is drawn to a decision of this Court in D.V. Kapoor v. Union of India [(1990) 4 SCC 314 : 1990 SCC (L&S) 696 :*

> *(1990) 14 ATC 906 : AIR 1990 SC 1923] . In that case also, disciplinary proceedings were initiated against the government servant under Rule 3(ii)(iii) of the CCS (Conduct) Rules and were later continued under Rule 9 of the CCS (Pension) Rules, 1972. The charge against the appellant there was that he absented himself from duty without any authorisation and despite his being asked to join duty, he remained absent. The Enquiry Officer, however, held that his absenting himself from duty could not be termed as entirely wilful because he could not move due to his wife's illness. The Enquiry Officer recommended that the case of the appellant should be considered sympathetically. The recommendation and finding of the Enquiry Officer were accepted by the President. However, it was decided to withhold full gratuity and payment of pension in consultation with the Union Public Service Commission. In these circumstances, this Court held that there was no finding that the appellant had committed grave misconduct as charged and that the exercise of power under Rule 9 was not warranted."*

48. The judgment in ***D.V. Kapoor*** (supra), therefore, could also not have been invoked by the learned Tribunal in the facts of the present case.

49. In ***T.P. Venugopal*** (supra), the Court was considering a case where forgery was alleged to have been committed by officers subordinate to the Charged Officer. The Court also found that none of the findings in the Inquiry Report indicated that the Charged Officer had committed grave misconduct or was guilty of grave negligence in permitting the subordinates to introduce fraudulent documents, incomplete processing, and passing of bills without proper verification. The Court held that simply because the Charged

Officer had passed the subject bills on the same date does not constitute any grave misconduct on the part of the Charged Officer, who had acted also as per the past practice. The said judgment is, therefore, clearly distinguishable from the facts of the present case, where the UPSC has, in fact, opined that the connivance of the respondent no. 1 with the guilty dealers could not be ruled out.

50. In the above facts and in view of the above discussion, we are unable to sustain the Impugned Order passed by the learned Tribunal. The same is accordingly set aside.

51. The petition is allowed in the above terms. The parties shall bear their respective costs.

NAVIN CHAWLA, J.

MADHU JAIN, J.

JANUARY 12, 2026/DG