

\$~19

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

+ W.P.(C) 8221/2015 & CM No. 17234/2015

T S RAJU

..... Petitioner

Through: Ms. Meenu Mainee, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Jitendra Kr. Singh, Advocate.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

% **28.08.2015**

Issue notice.

The petitioner's grievance is with respect to the disciplinary proceedings which resulted in penalty of withholding 10% monthly pension for 2 years. It is contended that at the end of the enquiry proceedings, in accordance with the Rule 9 (21) of the Railway Servants (Discipline & Appeal) Rules, 1968, the adverse material in the form of evidence etc. covered during the course of the enquiry was not put to the delinquent officer/petitioner. Learned counsel sought to rely upon a judgment of this Court reported as *Union of India vs. Tarlok Singh* (W.P.(C) No. 1760/2008 decided on 10.03.2011), highlighting especially that the questioning by the enquiry officer should be pointed and focused on the adverse materials.

We notice that in this case, the petitioner was asked four questions in which the denial of charges was clearly stated. The petitioner also stated that during the cross-examination he had elicited adequate information, to disprove the charges and that he had submitted four documents which were taken as defence documents.

He also expressed his unwillingness to be examined in his own defence. In addition, we notice that the petitioner had also placed written submissions explaining his point of view with reference to each witness as well as the documents placed on the record by him and explaining the purport of the documents and materials produced against him. Having regard to this, the Court is of the opinion that the argument with respect to violation of Rule 9 (21) is meritless.

The second argument is that the petitioner has not furnished the copy of the advice obtained from the Union Public Service Commission. Reliance is placed upon the judgment of the Supreme Court reported as *Union of India vs. R.P. Singh, AIR 2014 SC 2541*. On consideration of the same, it does appear that the requirement of furnishing a copy of the advice has been violated in this case. The impugned penalty order is vitiated on this account and is therefore set aside. Since the advice of the UPSC is now part of the record and the petitioner is aware of it, it is open to him to represent against such advice to the authorities within four weeks from today. The concerned disciplinary authority shall take into consideration the representation and pass appropriate orders in that regard within eight weeks from today and communicate the same directly to the petitioner. The writ petition is partly allowed in above terms.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

AUGUST 28, 2015/sapna