

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ WRIT PETITION (CIVIL) No. 1921/2015

% Reserved on: 05th December, 2016
Date of Decision: 16th February, 2017

TARIQ ALI KHANPetitioner
Through Mr. Sourabh Ahuja, Advocate.

Versus

GOVT. OF NCT OF DELHI & OTHERSRespondents
Through Mr. Satyakam, ASC for GNCTD & Mr. Navin
Jakhar, Advocate.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. CHANDER SHEKHAR

SANJIV KHANNA, J.

The petitioner-Tariq Ali Khan in the present writ petition impugns the order dated 11.09.2014 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in OA No. 747/2008 rejecting the plea of double jeopardy as untenable.

2. The petitioner, a Sub-Inspector in the Delhi Police, was posted in the departure wing of the International Airport on 11th September, 1998, the date on which the incident leading to the present controversy took place. FIR No. 433/1998 was registered against the petitioner at the Police Station, Indira Gandhi International Airport.

3. By judgment dated 12th February, 2007, the petitioner was convicted under Section 384 of the Indian Penal Code, 1860 (IPC, for short). This judgment refers to the statement of Era Gupta and Deepak Gupta, who had

deposed as PW-2 and PW-3, respectively. Era Gupta and her husband Deepak Gupta were travelling to Mauritius, and after collecting the boarding passes from the Airline's counter and filling up the embarkation form, had proceeded for immigration check. The petitioner, who was stationed at the immigration desk, had questioned Deepak Gupta as to the number of dollars he was carrying and had told them that they cannot travel to Mauritius and Singapore for they did not have the visa to go to Singapore. The petitioner had taken their passports, and had threatened that a case would be foisted against them. Era Gupta professed that under threat, her husband had parted and paid US\$ 500 to the petitioner. Thereafter, Era Gupta and Deepak Gupta were off-loaded and allowed to leave the airport. Era Gupta and Deepak Gupta returned to home and informed their parents. On examining the passports, they noticed that the page, on which the visa for Singapore was stamped, had been torn. Rajiv Bajaj (PW-4), who was working as the Station Manager at the Airport, affirmed that two passengers were unable to travel because of some problem and their baggage was returned. Other witnesses too corroborated the versions given by Era and Deepak Gupta. It was held petitioner, had intentionally threatened and instilled fear in Era Gupta and her husband Deepak Gupta of implicating them in a false case, and had thereby dishonestly induced them to deliver US\$ 500. The judgment, however, had acquitted the petitioner from the charge that he had torn the page with the Singapore visa from the passport, as it was not proved beyond doubt who had torn the said page. The page, undoubtedly, was torn. Prosecution under the Passport Act, 1967 failed for want of sanction. The order on sentence dated 2nd June, 2007, noting that the prosecution had continued for 9 years, sentenced the petitioner to imprisonment till rising of the court and fine of Rs.50,000/-, which was to

be paid as compensation to Era Gupta (PW-2) for the harassment suffered by her.

4. The petitioner preferred an appeal, which was rejected by the Additional Sessions Judge vide judgment dated 21st August, 2007. The conviction was maintained by the High Court and the Special Leave to Appeal was dismissed by the Supreme Court.

5. Consequent to the said conviction, the Deputy Commissioner of Police, Special Branch passed an order dated 9th January, 2008 recording that the petitioner had been convicted under Section 384 IPC in the aforesaid FIR on 26th February, 2007 and sentenced to imprisonment till the rising of the court and fine of Rs.50,000/-, which was to be paid as compensation, and the fact that the first appeal preferred by the petitioner had been dismissed. Considering the conduct of the petitioner, which has led to his conviction, the order holds that the petitioner's further retention in police service was undesirable. In exercise of power conferred under Rule 11(1) of the Delhi Police (Punishment and Appeal) Rules, 1980 read with Article 311(2)(a) of the Constitution of India, the petitioner was dismissed from service with immediate effect.

6. The petitioner had preferred an appeal, which met with an order of rejection vide order dated 26th March, 2008 passed by the Joint Commissioner of Police, Special Branch. One of the contentions raised and rejected by the Appellate Authority was of double jeopardy. The petitioner had earlier faced departmental proceedings for misconduct and the disciplinary authority vide order dated 30th August, 1999 had imposed penalty of dismissal from service, albeit, on appeal the Joint Commissioner of

Police vide order dated 18th January, 2000 had modified and reduced punishment to that of forfeiture of two years approved service. The said contention was rejected by the Appellate Authority, recording that the earlier penalty of forfeiture was based upon regular departmental inquiry, but now the petitioner had been dismissed from the service (force) on his conviction by a competent court of criminal jurisdiction. There was no violation of any rule or law.

7. Aggrieved, the petitioner filed OA No. 747/2008, which was initially dismissed by the Principal Bench of the Central Administrative Tribunal, Delhi (Tribunal, for short) vide order dated 12th December, 2011. However, the matter was remanded for fresh decision in the Writ Petition (C) No. 94/2013 dated 8th January, 2013 recording as under:-

“6. The issue which arose before the Central Administrative Tribunal in OA No. 747/2008 is: Whether for the same act, in the context of it being a civil wrong, if penal action is taken, can for the criminality of the same act upon being convicted power as per Rule 11(1) be exercisable or whether upon levying a penalty pertaining to the civil wrong element of the act, the disciplinary power gets exhausted meaning thereby no action can be taken under Rule 11(1) of the Delhi Police (Punishment and Appeal) Rules, 1980.

7. Unfortunately, the impugned order passed by the Tribunal appears to be a mechanist exercise of the application of mind and not a reasoned application of mind and accordingly we dispose of the writ petition setting aside the impugned order dated December 12, 2011. OA No. 747/2008 is restored for adjudication before the Tribunal. The order does not even note the legal issue which was to be decided.

8. The Tribunal will keep into mind the legal issue which arises for consideration and as noted by us in the present decision and thereafter would decide the matter.....”

8. The Tribunal, in the impugned order dated 11th September, 2014, has examined the legal position to hold that the plea of double jeopardy was untenable. The order of dismissal pursuant to conviction in the criminal proceedings was separate and distinct from the order in the disciplinary proceedings, the principle of *autrefois acquit* was not attracted and Article 20(2) of the Constitution would not be applicable.

9. The petitioner has now challenged the aforesaid orders, i.e., order of the disciplinary authority dated 9th January, 2008 passed under Rule 11(1) of the Rules read with the second proviso to clause (a) of Article 311(2) of the Constitution, the appellate order dated 26th March, 2008 passed by the Joint Commissioner of Police, Special Branch and the order of the Tribunal dated 11th September, 2014 in this writ petition.

10. We would first refer to Article 20(2) of the Constitution which incorporates the principle of “double jeopardy”. In ***Union of India and Another versus Purushottam***, (2015) 3 SCC 779, the Supreme Court, after referring to the Constitution of several countries, elucidated that Article 20(2) would only come into play when a person has been prosecuted and punished for the same offence more than once. The article imbibes only the principle of *autrefois convict* and does not imbibe the principle of *autrefois acquit*. More importantly, for the present controversy, it was held that Article 20(2) postulates prescribed successive punishment of criminal character. *A fortiori*, departmental or disciplinary proceedings even if punitive and attracting principle of *Autrefois convict* are not prohibited by Article 20(2) of the Constitution. Reference was made to earlier judgments to observe that if a trial on criminal charge results in conviction, disciplinary proceedings were

bound to follow against the public servant so convicted, and even in case of acquittal, disciplinary proceedings could follow. The same conclusion was arrived at in *Inspector General of Police versus S. Samuthiram*, (2013) 1 SCC 598, which makes a comprehensive study of prominent judicial precedents. In *Purushottam* (supra), the officer therein was proceeded against under Section 53(a) of the Army Act, 1950 and was tried by way of summary court martial and awarded the sentence of reduction of rank to that of Naik. The reviewing authority purportedly acting under Section 162 of the Army Act had intervened and set aside the said summary court martial on account of incorrect framing of charge and lackadaisical recording of evidence. However, the records did not reveal whether the advice of the Reviewing Authority was acted upon. While the impasse was on, a show cause notice was issued to the said officer as he was found to be engaged in illegal activities and acts of indiscipline, which were subject matter of the court martial proceedings. Thereafter, the officer was told that his services had been terminated and discharge certificate was issued under Rule 13 of the Army Rules. This order was made subject matter of challenge in the legal proceedings, which had led to the filing of the appeal by the Union of India before the Supreme Court. Referring to the legal position and the contradictions and incongruities in the order of the Reviewing Authority etc, it was observed that the summary court martial had not acquired finality for confirmation was required. Other defects and aspects were noticed. The action of the Reviewing Authority was adversely commented upon. Referring to the Army Act and the Rules, it was observed that any person other than the officer can be dismissed or removed or reduced from service under Section 20 read with Rule 17 and this aspect had not been taken into

consideration. There was, therefore, difference between departmental action and the power which had been exercised under Section 20 read with Rule 17. The impugned judgment of the High Court was, therefore, set aside.

11. In the present context, we would like to refer Article 311 of the Constitution of India, which reads as under:-

“311. (1) No person who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed.

[(2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges 4***:

[Provided that where it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed:

Provided further that this clause shall not apply—]

(a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or

(b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or

(c) where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to hold such inquiry. (3) If, in respect of any such person as aforesaid, a question arises whether it is reasonably practicable to hold such inquiry as is referred to in clause (2), the decision

thereon of the authority empowered to dismiss or remove such person or to reduce him in rank shall be final.]”

12. In *Union of India and Another versus Tulsiram Patel*, (1985) 3 SCC 398, the Constitution Bench of the Supreme Court in its majority judgment had pointed out the difference between action taken under the second proviso to clause (2) of Article 311 and the action for dismissal, removal or reduction of rank after an inquiry under the main clause. Madon, J. in his majority opinion observed that clauses (1) and (2) of Article 311 expressly reflect the manner in which the Government servant can be dismissed, removed or reduced in rank. Statutory Rules framed under the proviso to Article 309 must conform to the restrictions imposed by the constitutional provisions of Article 311(2), for otherwise, they would be void. Clauses (1) and (2) of Article 311 prescribe the procedure for dismissal, removal or reduction of rank of a Government servant. However, the second proviso lifts the restrictions imposed by clause (2) of Article 311 in the cases specified in three sub-clauses of the proviso. Referring to the amendment made by the Constitution (Forty-Second Amendment) Act, 1976 and the legislative history of Article 311, it was held that the second proviso expressly mandates that clause (2) would not apply where one of the clauses of that proviso become applicable. This being the express provision, which excludes everything that clause (2) contains, there can be no scope for once again introducing principles propounded in clause (2) or any of them into the second proviso. Turning to Article 14 and the scope and ambit of principles of natural justice and to this extent overruling the earlier decisions of the Supreme Court on the said aspect, it was held that principles of natural justice have been expressly excluded from the second proviso to clause (2) of Article

311 and there was no scope of reintroducing them when the constitutional provision has expressly prohibited their application.

13. Another important aspect discussed and elucidated in *Tulsiram Patel* (supra) with reference to the rules enacted under the second proviso to Article 309, was whether the Rules could liberalise the exclusionary effect of the second proviso and thereby modify or alter the stipulations and mandate of the said Article. It was held that the Rules made under this proviso to Article 309 or under any Act are/were referable to that Article and, therefore, must be subject to the provisions of the Constitution if the rules or the said enactment ought to be followed. The reason being the opening words of Article 309 makes that Article expressly “subject to the provisions of the Constitution” and, therefore, would give primacy to the second proviso to Article 311(2), which is an express provision. Accordingly, none of the Rules or enactments could restrict the exclusionary impact of the second proviso to Article 311(2) or impinge upon the said clause for otherwise the said enactment or rule would be invalid or unconstitutional. The service rules may reproduce the provisions of the second proviso authorising the disciplinary authority to dispense with the inquiry contemplated by clause (2) of Article 311 in the three cases mentioned in the second proviso, but the same cannot be read apart from the source of the said power, i.e., second proviso to Article 311(2). Referring to clause (a) of the second proviso, it was observed as under:-

“**127.** Not much remains to be said about clause (a) of the second proviso to Article 311(2). To recapitulate briefly, where a disciplinary authority comes to know that a government servant has been convicted on a criminal charge, it must consider whether his

conduct which has led to his conviction was such as warrants the imposition of a penalty and, if so, what that penalty should be. For that purpose it will have to peruse the judgment of the criminal court and consider all the facts and circumstances of the case and the various factors set out in *Challappan case* [(1976) 3 SCC 190 : 1976 SCC (L&S) 398 : (1976) 1 SCR 783] . This, however, has to be done by it ex parte and by itself. Once the disciplinary authority reaches the conclusion that the government servant's conduct was such as to require his dismissal or removal from service or reduction in rank he must decide which of these three penalties should be imposed on him. This too it has to do by itself and without hearing the concerned government servant by reason of the exclusionary effect of the second proviso. The disciplinary authority must, however, bear in mind that a conviction on a criminal charge does not automatically entail dismissal, removal or reduction in rank of the concerned government servant. Having decided which of these three penalties is required to be imposed, he has to pass the requisite order. A government servant who is aggrieved by the penalty imposed can agitate in appeal, revision or review, as the case may be, that the penalty was too severe or excessive and not warranted by the facts and circumstances of the case. If it is his case that he is not the government servant who has been in fact convicted, he can also agitate this question in appeal, revision or review. If he fails in the departmental remedies and still wants to pursue the matter, he can invoke the court's power of judicial review subject to the court permitting it. If the court finds that he was not in fact the person convicted, it will strike down the impugned order and order him to be reinstated in service. Where the court finds that the penalty imposed by the impugned order is arbitrary or grossly excessive or out of all proportion to the offence committed or not warranted by the facts and circumstances of the case or the requirements of that particular government service the court will also strike down the impugned order. Thus, in *Shankar Dass v. Union of India* [(1985) 2 SCC 358 : 1985 SCC (L&S) 444] this Court set aside the impugned order of penalty on the ground that the penalty of dismissal from service imposed upon the appellant was whimsical and ordered his reinstatement in service with full back wages. It is, however, not necessary that the court should always order reinstatement. The court

can instead substitute a penalty which in its opinion would be just and proper in the circumstances of the case.”

14. Thus, in our opinion, the question of “double jeopardy” does not arise. The subject matter of the disciplinary or the civil proceedings was the question of misconduct. At that time, the judgment of conviction by the criminal court had not been passed. Once the judgment of conviction was passed, clause (a) to the second proviso to Article 311(2) would become applicable and the authorities were competent and authorised to take action as per law, notwithstanding the punishment and finding in the disciplinary proceedings under Clause (1) and (2) of Article 311 of the Constitution.

15. Pertinent here would also be reference to the order passed by the Joint Commissioner of Police dated 18th January, 2000 by which he had reduced the punishment of dismissal in the disciplinary proceedings to one for forfeiture of service of two years, which are to the following effect:-

“5. There is no documentary or oral evidence of extorting 500 US Dollars from them or to have torn visa page from her passport. The torn out page was also not recovered from his person, seat, drawer or from his house.

The above mentioned inherent defects in the D.E. go in favour of the defaulter. Therefore the punishment of dismissal is too harsh when number of other major punishments are also available under the Rules to meet the ends of justice. I, therefore, reduce the punishment of dismissal to that of forfeiture of two years approved service permanently for a period of two years entailing proportionate reduction in his pay by two stage per month in time scale of pay w.e.f. the date of dismissal awarded by the disciplinary authority on 30.8.99. He will not earn the increment of pay during the period of reduction and on expiry of the period, the reduction will have the effect of postponing of his future increments. The suspension period

w.e.f. 13.9.98 to 30.8.99 is to be treated as not spent on duty and the intervening period.

Dismissal till his joining duty is to be treated as L.K.D.”

The aforesaid reasons indicate that the order passed by the Appellate Authority was on the basis of material and facts before him. The material and facts before the criminal court were different and the question raised on the basis of evidence was whether or not an offence under Section 384 IPC with which the petitioner was charged, was committed. The charge was established and proved. We may, at this stage, once again refer to the decision of ***Tulsiram Patel*** (supra) with reference to clause (a) to the second proviso to Article 311(2) of the Constitution which refers to the conduct which has led to a Government servant’s conviction on the criminal charge. ***Tulsiram Patel*** (supra) holds that when a case falls under any of the three clauses of the second proviso, then right to the inquiry cannot be availed of. Nevertheless, in a case falling under clause (a) of the second proviso to Article 311(2), the Government servant can contest that the penalty imposed is too severe or excessive and he can also show that this is a case of mistaken identity. Other aspects as indicated in paragraph 17 below have to be considered.

16. Learned counsel for the petitioner has relied on an unreported decision of a Division Bench of this court in Writ Petition (C) No. 4085/2015, ***Commissioner of Police versus Ram Kishan***, dated 13th August, 2015. In this case, the Division Bench of Delhi High Court had referred to Rule 11(1) of the Delhi Police Rules and on interpreting the same, observed that in the departmental proceedings the disciplinary authorities had not considered it appropriate to dismiss or remove the employee and punishment of

withholding of next increment for two years with cumulative effect was passed. Therefore, the second inquiry under Rule 11(1) imposing a second punishment of dismissal could not have been passed especially after a gap of 14 years. We would observe that this decision does not refer to clause (a) to the second proviso to Article 311(2) or the ratio in *Tulsiram Patel* (supra) and restricts itself to only interpretation to Rule 11(1) and would not in any manner reflect or curtail the jurisdiction and power conferred on the disciplinary authority under clause (a) to the second proviso to Article 311(2). It is obvious that the said decision would not be good in law to the extent that it contradicts and is not in consonance with the ratio in *Tulsiram Patel* (supra).

17. The ratio as expounded by the Constitution Bench in *Tulsiram Patel* (supra) was summarised in the subsequent decision of the Supreme Court in *Satyavir Singh and Ors. Vs. Union of India*, (1985) 4 SCC 252. Referring to the second proviso to Article 311 (2), it was held that the said proviso consists of three different clauses (a) to (c) and when the second proviso applies, the constitutional prohibitory injunction as postulated in Article 311(2) would not be applicable. The three clauses to the second proviso are not intended to be applied to normal or ordinary situations. They are exceptional and the conditions laid down under the particular clause must be satisfied. There is no scope of introducing into the second proviso some kind of inquiry or opportunity to show cause by a process of inference or implication. Further, the Rules made under the proviso to Article 309 cannot impinge upon or restrict the operation of the second proviso to Article 311 (2), for Article 309 is expressly made subject to other provisions of the Constitution. Executive instructions, which provide for safeguards excluded

by the second proviso to Article 311(2) would be directory and not mandatory. However, the Disciplinary Authority, under clause (a) to the second proviso to Article 311(2), would have to first decide if any punishment was warranted, and if so, what the said punishment would be in the facts and circumstances of the case, though such consideration would be ex-parte without hearing the civil servant concerned. When clause (a) to the second proviso to Article 311(2) applies and is invoked, the authority concerned must peruse the judgment of the criminal court and take into consideration all facts and circumstances of the case and various factors as culled out and stated in *Divisional Personnel Officer, Southern Railway Vs. T.R. Challappan*, (1976) 3 SCC 190.

18. The Supreme Court in the case of *State of Haryana versus Balwant Singh*, (2003) 3 SCC 362 had dealt with the case of a bus driver, who was awarded punishment of reduction of pay to the minimum scale in the disciplinary proceedings. However, subsequently, for the same occurrence/act, he was convicted under Section 304A IPC and based upon his conviction his services were terminated. The employee challenged the order of termination and was successful as the plea of double jeopardy, i.e., the employee cannot be punished twice, was accepted by the High Court. The State of Haryana had filed an appeal. Reversing the finding of the High Court, the Supreme Court held that there was a manifest error in holding that the employee had been prosecuted and punished twice. The order in the departmental proceedings was distinct from the order passed pursuant to conviction of the employee in the criminal case under Section 304A IPC. There was no question of the employee suffering double jeopardy. The second order was permissible under the powers conferred. Reference was

made to the earlier decision of the Supreme Court in *Union of India versus P.D. Yadav*, (2002) 1 SCC 405.

19. The petitioner had referred to an unreported decision of the High Court of Madras in Writ Petition No. 28847/2004, *D. Narayanan versus District Revenue Officer and Others*, dated 17th February, 2009. This decision records that under the law there is no embargo for initiating departmental proceedings on self same allegations as in the criminal case, which may already be initiated or contemplated, for there are several decisions that even after acquittal in the criminal case there is no legal embargo for the departmental authorities to revive or initiate departmental proceedings. However, once disciplinary proceedings have culminated, the punishment stands imposed, it would be impermissible for the departmental authorities to subject the same delinquent to a fresh punishment on the self same allegations, which had led to his conviction in the criminal trial. The decision in *Balwant Singh* (supra) was referred to and the same was distinguished on the factual matrix observing that the punishment in the disciplinary proceedings was on account of loss caused by the driver and the second punishment was on account of conviction in the criminal case. We would, in light of the aforesaid discussion, hold that the action taken in accordance with clause (a) to the second proviso to Article 311(2) is distinct and cannot be struck down on the ground that the disciplinary proceedings were earlier initiated and the employee was exonerated or some punishment was imposed.

20. An order under clause (a) to the second proviso to Article 311(2) is not passed mechanically. The entire conduct of the civil servant, gravity of the offence committed by him, the impact which his misconduct is likely to

have on the administration, whether the offence for which he was convicted was of a technical or trivial nature, and the extenuating circumstances, if any, have to be considered, even if the consideration by the disciplinary authority is ex-parte and without hearing. The penalty imposed should not be arbitrary or grossly excessive or out of proportion and not warranted by the facts and circumstances. The aforesaid reasoning given by the High Court of Madras in ***D. Narayanan*** (supra), in our opinion, cannot be read as holding that a Government servant, who suffered conviction in a criminal trial and is held to be guilty of moral turpitude, cannot be proceeded under clause (a) to the second proviso to Article 311 (2) of the Constitution as has been clearly held in the case of ***Tulsiram Patel, Satyavir Singh*** and ***Balwant Singh*** (supra). If it has been so held, the ratio of this decision would be contrary to and in conflict with the decisions of the Supreme Court.

21. When we turn to the facts of the present case, it is pertinent to note that the judgment of the criminal court convicting the petitioner for an offence under Section 384 of the IPC does not relate to a technical offence, albeit rather reflects and shows abuse of official position and vicious conduct. Moral turpitude ex-facie is apparent. A young couple was harassed and made to part with money by the police officer, i.e., the petitioner, stationed at the immigration desk, who had threatened them with false implication in a criminal case. Such conduct cannot be countenanced. It is not a case where the petitioner did not have the opportunity to defend himself in criminal proceedings, for the burden of proof was the prosecution and was discharged, the offence being established and proven. The petitioner had sufficient right and opportunity to defend himself against the criminal charge. His conviction, which has been upheld, cannot now be overlooked. In the present

case, the conditions for invoking clause (a) of the second proviso to Article 311 (2) were satisfied. The order terminating services of the petitioner under the said clause dated 9th January, 2008 refers to the said conviction and the punishment of imprisonment till the rising of the Court and direction to pay Rs.50,000/- to Era Gupta. It also refers to the harassment suffered by Era Gupta and the fact that the petitioner was convicted under Section 384 IPC and the appeal filed had been dismissed. The order records that considering the conduct of the petitioner, which had led to his conviction, his further retention in the public service as a police officer was undesirable. The departmental appeal preferred by him was dismissed by the Joint Commissioner of Police, who has observed that he had thoroughly examined the judgment of conviction as affirmed by the first Appellate Court. He concurred with the exercise of power under Rule 11(1) of Delhi Police (Punishment and Appeal) Rules, 1980 and had specifically rejected the argument of double jeopardy.

22. In view of the aforesaid discussion, we do not find any merit in the present writ petition and the same is dismissed. In the facts of the case, there would be no order as to costs.

(SANJIV KHANNA)
JUDGE

(CHANDER SHEKHAR)
JUDGE

February 16th, 2017 VKR/ssn