



2026:DHC:4484-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 6900/2024, CM APPL. 28732/2024, CM APPL.
28733/2024 & CM APPL. 61734/2025

UNION OF INDIAPetitioner
Through: Ms Manisha Agrawal Narain,
CGSC

versus

D K THAKUR AND OTHERSRespondents
Through: Mr. Ravinder Agarwal, Mr.
Manish Kumar Singh and Mr. Vasu Agarwal,
Advs.

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)
15.05.2026

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OM PRAKASH SHUKLA, J.

1. Through the present petition, the Petitioner has assailed the correctness of the order dated 06.09.2023¹, passed in Original Application No. 554/2018, whereby the learned Central Administrative Tribunal² had directed reinstatement of the Respondent in service with all consequential benefits.

2. Shorn of unnecessary details, the relevant facts are noted hereunder.

¹ "impugned order" hereinafter
² "Tribunal" hereinafter



3. Shri D.K. Thakur³, Respondent No.1 herein, was working as Assistant in the Ministry of Home Affairs⁴ (Respondent No.2 herein) and was posted in F-VII Section, Foreigners Division, Jaisalmer House, New Delhi from 10.03.2008 to 20.01.2010.

4. During his tenure as an Assistant in the MHA, a memorandum was sent to him stating that a complaint had been received from one Karamjit Singh Gill alleging that the Respondent, on 14.12.2009, had taken a bribe of Rs.10000 from him in *lieu* of extension of the visas of his family members. The Respondent was asked to reply to the said memorandum within 4 days of its receipt.

5. In its response to the memorandum *vide* letter dated 14.01.2010, the Respondent denied the allegations and stated that the complaint was false and *mala fide*.

6. Thereafter, in the meanwhile, the Respondent was transferred to the Ministry of Statistics and Programme Implementation, by the Petitioner herein, *vide* order dated 17.07.2012. Subsequently, disciplinary proceedings under Rule 14 of the CCS Rules, 1965⁵, were initiated against him *vide* Office Memorandum⁶ dated 09.05.2013.

7. A charge-sheet came to be issued against the Respondent levelling allegations that while working in the Foreigners Division, MHA, he had demanded and accepted a bribe of Rs. 10,000/- from one

³ "Respondent" hereinafter

⁴ "MHA" hereinafter

⁵ "CCS Rules" hereinafter

⁶ "OM" hereinafter



Shri Karamjit Gill, a resident of Canada, for extension of his visa on 14.12.2009. Subsequently, an Inquiry Officer⁷ was also appointed to inquire into the charges framed against the Respondent.

8. Preliminary enquiry and departmental proceedings were conducted by the first IO, who submitted its report on 07.04.2014, in which he absolved the Respondent from the charges framed against him as no evidence surfaced to substantiate the charges framed.

9. After the proceedings were concluded by the first IO, an order dated 02.10.2014 was issued by the Disciplinary Authority⁸ wherein it was observed by the DA that earlier proceedings conducted by the first IO had some procedural lapses such as improper evaluation of documents related to identification of the Respondent by the complainant. Due to the lapses identified, a further inquiry was ordered by a different IO as per Rule 15(1) of the CCS Rules by a different officer.

10. Against the order directing further inquiry, the Respondent submitted a representation dated 17.11.2014 contending that, under the guise of a further inquiry, DA had in fact ordered a *de novo* inquiry by appointing a different Inquiry Officer, which was impermissible under Rule 15(1) of the CCS Rules.

11. Dehors the representation of the Respondent, a second Inquiry

⁷ "first IO" hereinafter

⁸ "DA" hereinafter



Officer⁹ came to be appointed and a second inquiry was conducted in which testimonies of new witnesses, who were not named in the chargesheet, were also recorded. As their name were not in the chargesheet, they were summoned as Court witnesses. Relying on the material adduced in the second enquiry, a report dated 23.06.2015 came to be submitted. In the said report, it was reasoned that although direct evidence of demand and acceptance of bribe was not available, the surrounding circumstances and material on record, when examined on the principle of preponderance of probabilities, was sufficient to arrive at a conclusion that the charges against the Respondent is proved.

12. Since, charge were found to be proved, a advice was sought from the Union Public Service Commission¹⁰ (Respondent No. 3 herein), regarding the nature of penalty to be imposed. Accordingly, the Petitioner sought advice from the UPSC after forwarding the entire inquiry record.

13. In response, the UPSC, *vide* letter dated 16.11.2015, observed that the DA had committed a procedural lapse by appointing a second IO to conduct a fresh inquiry against the Respondent. Accordingly, the matter was returned to the Petitioner with the advice that the deficiency pointed out by the UPSC be first rectified and then sent back for reconsideration.

14. The Petitioner, thereafter, referred the matter to the Ministry of Personnel, Public Grievances and Pensions Department of Personnel

⁹ "second IO" hereinafter

¹⁰ "UPSC" hereinafter



and Training¹¹ (Respondent No.4 herein), which also endorsed the view taken by the UPSC and clarified that a fresh inquiry could not be ordered merely because the DA disagreed with the earlier findings.

15. Subsequently, the matter was referred to the Ministry of Law and Justice and Assistant Legal Officer, Department of Legal Affairs for legal opinion on the validity of the further inquiry under Rule 15 of the CCS Rules. It was observed that further inquiry could be ordered only in cases involving serious defects in the inquiry, such as non-examination of important witnesses, but the disciplinary authority was not competent to set aside the earlier inquiry merely because the findings of the first IO were not acceptable to him. The matter was accordingly returned to the Petitioner for reconsideration.

16. In light of the said legal opinion, the matter was examined at various levels in the DoPT. While the Director observed that there were no grounds to disagree with the advice of the UPSC and that there was insufficient material to sustain the charge, the Joint Secretary opined that since the second inquiry had already found the charged officer guilty, the second inquiry report required further examination. The Secretary, in turn, observed that the UPSC had not been properly consulted and directed that fresh consultation be taken.

17. Thereafter, the Petitioners again approached the Assistant Legal Officer, Department of Legal Affairs, who opined that since the first IO had failed to consider vital evidence and material witnesses while



returning findings in favour of the charged officer, the DA was justified in ordering a *de novo* inquiry and the same could not be faulted by the UPSC.

18. In light of the aforesaid findings, the matter was again referred to the UPSC, which *vide* order dated 13.12.2016, came to the conclusion that the charges framed against the Respondent stood proved on the principle of preponderance of probabilities. Accordingly, UPSC advised imposition of penalty of reduction by three stages in the time scale of pay till the Respondent attained the age of superannuation.

19. However, there was again a disagreement with the advice of the UPSC recommending the lesser penalty of reduction in pay and, by placing reliance on Rule 11 of the CCS Rules, penalty of dismissal was proposed. In view of such disagreement, the matter was again referred to the DoPT. The DoPT, thereafter, advised imposition of the penalty of dismissal and, accordingly, *vide* order dated 09.11.2017, the penalty of dismissal was imposed upon the Respondent with immediate effect.

20. Aggrieved by the aforesaid dismissal order, the Respondent herein filed O.A. No. 554/2018 before the learned Tribunal seeking quashing of the dismissal order dated 09.11.2017. *Vide* impugned order dated 06.09.2023, the learned Tribunal set aside the order of major penalty primarily on the grounds that: (i) consultation with the DoPT for imposing major penalty was contrary to the CCS Rules; (ii) the penalty had been imposed without affording adequate opportunity of representation to the Respondent herein; and (iii) agreeing with the advice of the UPSC, the DA, instead of appointing a new Inquiry



Officer and Presenting Officer to conduct a fresh inquiry for the reasons given, ought either to have remitted the matter to the first IO or recorded its disagreement with the earlier findings.

21. It is contended on behalf of the Petitioner that what was directed by the DA was not a fresh inquiry, but only a further inquiry after recording reasons in writing as per Rule 15(1). In this regard, Ms. Narain drew our attention to paragraph 3 of the order dated 02.10.2014, in which the DA had pointed out serious procedural lapses such as improper evaluation of the identification evidence of the charged officer and non-examination of certain material witnesses, which, according to the Petitioners, had materially affected the conclusion rendered by the first IO. Reliance was placed on *UOI & Ors v. P. Thayagarajan*¹² to contend that further inquiry is permissible where some serious defect has crept into the inquiry or important witnesses could not be examined.

22. It was further contended that the learned Tribunal did not consider the DoPT OM dated 05.12.2006 and 02.03.2016, which provide that once the disciplinary authority disagrees with the earlier advice of the UPSC recommending a lesser penalty, the matter can be referred to the DOPT for its advice. It is also argued that since the penalty imposed fell under Rule 11(ix) of the CCS Rules, no separate opportunity of representation was required to be afforded before passing the final order of dismissal.

23. *Per contra*, learned counsel appearing on behalf of the



Respondent supports the impugned order and contends that the very order directing the second inquiry is vitiated in law, inasmuch as the so-called further inquiry ordered by the DA is, in substance, a *de novo* inquiry undertaken only because the DA is dissatisfied with the findings returned by the first IO, which course is *dehors* Rule 15 of the CCS Rules.

24. We have heard the learned counsel for the parties and perused the material on record.

25. One of the principal grounds taken by the Petitioner to assail the impugned order is that the learned Tribunal erred in holding that the DA had ordered a fresh inquiry. During the course of hearing, Ms. Narain pointed out order dated 02.10.2014 passed by the DA, whereby the DA recorded the reasons in writing in compliance of Rule 15(1) and directed the further inquiry. It was pointed out that in paragraph 3 of the said order, specific procedural lapses were identified and, on that basis, the matter was duly remitted back by the DA for further inquiry under Rule 15(1) of the Rules.

26. However, it is the case of the Respondent that the order directing further inquiry is *dehors* Rule 15(1), as for the reasons recorded therein, what was ordered in substance was a *de novo* inquiry and not a permissible further inquiry under the Rule.

27. Therefore, the main issue which falls for our consideration is whether, in the facts of the present case, the order passed by the DA directing further inquiry under Rule 15(1) of the Rules was a



permissible further inquiry for the reasons given or whether it travelled beyond the scope of the Rule and in actually amounted to a fresh or *de novo* inquiry.

28. At this juncture, it would also be apposite to reproduce Rule 15(1). The same reads as:

“15. Action on inquiry report

(1) The disciplinary authority, if it is not itself the inquiring authority may, for reasons to be recorded by it in writing, remit the case to the inquiring authority for further inquiry and report and the inquiring authority shall thereupon proceed to hold the further inquiry according to the provisions of Rule 14, as far as may be.”

29. A plain reading of the aforesaid quoted provision shows that under Rule 15(1), the disciplinary authority is empowered, for reasons to be recorded in writing, to remit the matter to the Inquiry Authority for further inquiry and submission of report. However, the expression “further inquiry” in Rule 15(1) cannot be understood to mean a fresh or *de novo* inquiry altogether. The scope and ambit of “further inquiry” under Rule 15(1) of the CCS Rules came up for consideration before the Hon’ble Supreme Court in *K.R. Deb v. CCE*¹³, wherein the Court observed in paragraph 13 as under:

“12. It seems to us that Rule 15 on the face of it, really provides for one enquiry but it may be possible if in a particular case there has been no proper enquiry because some serious defect has crept into the enquiry or some important witnesses were not available at the time of the enquiry or were not examined for some other reason, the Disciplinary Authority may ask the I.O. to record further evidences. But there is no provision in Rule 15 for the completely setting aside previous enquiries on the ground that the report of the I.O. or officers



does not appeal to the Disciplinary Authority. The Disciplinary Authority has enough powers to reconsider the evidence itself and come to its own conclusion under Rule 9.”

30. We are not going any further into the distinction between a *de novo* inquiry and a further inquiry, since the specific case of the Petitioners themselves is that what was ordered by the DA was only a further inquiry under Rule 15 and not a *de novo* inquiry permissible under the Rules.

31. However, surprisingly, nowhere in the various references made by the Petitioner to the UPSC, DoPT or the Ministry of Law was the second inquiry treated as a mere further inquiry. In fact, wherever the course adopted by the DA was sought to be justified, it was justified on the reasoning that, in the facts of the case, a fresh inquiry itself was warranted.

32. Be that as it may, we do not propose to enter into that larger controversy and shall confine ourselves only to examining whether the reasons recorded by the DA were at all sufficient in law to justify invocation of Rule 15(1) for ordering a further inquiry.

33. Now as we understood the scope of Rule 15(1) in light of ***K.R. Deb (supra)***, we feel that for proper appreciation of the issue involved, it would be apt to reproduce para 3 of the order dated 02.10.2014 passed by the DA wherein the reasons for the further inquiry was recorded:

“AND WHEREAS, the Disciplinary Authority having carefully gone through the records of inquiry, found that inquiry against Shri D.K. Thakur, Section Officer has not been held in, accordance with



the prescribed procedure in as much as the documentary evidence of the Complainant, his confirmation about the identification of photograph of CO has not been evaluated as per procedure prescribed under Rules. Also no ulterior motives/ imputation against the Complainant is discernible/ made out in the whole record of proceedings.”

34. Our perusal of the aforesaid indicates that DA cited the following aspects were treated as procedural lapses: (i) alleged improper evaluation of documentary evidence relating to identification of the Respondent by the complainant; and (ii) absence of any material showing ulterior motive on the part of the complainant. During the hearing, Ms. Narain contended that a further inquiry was necessary as, in the previous inquiry, some key witnesses were not examined, which, according to her, had materially affected the earlier inquiry proceedings.

35. In order to assess the above procedural lapses cited by the DA, we have perused the entire material on record. To our mind, none of the reason cited by the DA or those advanced by Ms. Narain constitute sufficient grounds to order a further inquiry under Rule 15(1) of the CCS Rules.

36. According to the DA, the first IO did not properly evaluate the documentary evidence relating to identification of the charged officer by the complainant. However, the material on record itself shows that photograph of the Respondent was sent to the complainant, accompanied by the Respondent's name and signature for identification. The first IO duly considered the evidentiary value of all the above documents and, thereafter, only gave its finding.



37. If the DA was of the view that the said material relating to identification ought to have been appreciated differently, the same could at best furnish a ground for disagreement with the findings returned by the first IO, and not a procedural lapse warranting a further inquiry.

38. Likewise, the DA also observed that no ulterior motive against the complainant was discernible from the record. However, that again was part of the assessment of evidence undertaken by the IO while analysing the credibility of the allegations. In no way to us, it can relate to any procedural lapse in the inquiry by the first IO to justify further enquiry under Rule 15(1).

39. As regards non-examination of witnesses proposed by Ms. Narain, we note that the three witnesses named in the charge-sheet had been examined by the initial IO. If the department considered some additional witnesses necessary, they ought to have formed part of the charge-sheet itself.

40. In our view, non-examination of witnesses who were not even made part of the charge-sheet can in no way be related to any procedural lapse or fault in the inquiry conducted by the first IO. By labelling such omissions as procedural lapses, we find that the DA was essentially seeking to improve upon the case on merits through witnesses who could very well have been included in the charge-sheet itself in the first place.



41. Such a course, in our opinion, falls completely outside the scope of Rule 15(1), which cannot be invoked to fill up gaps in the departmental case or to cure deficiencies in the charge-sheet itself. Even in *K.R. Deb (supra)* and *P. Thayagarajan (supra)*, the Supreme Court while referring to non-examination of important witnesses contemplated a situation where such witnesses, though material, could not be examined during the inquiry for valid reasons. The said observations cannot be read to subsequently introduce witnesses who were never even cited in the charge-sheet with no valid reason.

42. Interestingly, it appears to us that the reasons recorded by the DA for further inquiry indicates that the DA was actually dissatisfied with the findings returned by the first IO rather than any procedural irregularity and felt that the evidence had either not been properly appreciated by the first IO to arrive at its conclusions.

43. In circumstances, where the DA is not in agreement with the conclusions returned by the first IO, it is by now well settled that the disciplinary authority is required to record its tentative reasons for disagreement and furnish a disagreement note to the charged officer, so as to enable him to submit his response as per Rule 15(2) of the CCS Rules.¹⁴ Only thereafter can an appropriate final decision be taken with regard to the penalty.

44. In the present case, in fact, a careful reading of all the reasons recorded by the DA, along with a perusal of the material on record



referred to above, shows that all reasons cited by the DA relate to re-appreciation of evidence already available on record, and do not indicate any procedural defects in the inquiry conducted by the first IO. However, instead of adopting the route of issuing a disagreement note as per Rule 15(2), such disagreement with the findings on merits was styled as a “procedural lapse” so as to invoke Rule 15(1).

45. On another count as well, we find that the order directing a further inquiry stands vitiated, inasmuch as the same was not remitted to the first IO but to a completely new Inquiry Officer. In this regard, it is apt to rely on the decision of the Division Bench of this Court in *Union of India v. S.K. Verma*¹⁵, where it was held that even under Rule 15(1), a further inquiry must ordinarily be conducted by the same Inquiry Officer unless such officer is unavailable or otherwise incapacitated from conducting the proceedings. A fresh inquiry by a new IO cannot be treated as a mere further inquiry under Rule 15(1). The relevant para read as thus:

“15. In our opinion, the Tribunal has rightly held that such a procedure cannot be termed as a ‘further inquiry’ but for all effect and purposes, a fresh inquiry or a de novo inquiry as a ‘further inquiry’ is required to be held from the stage at which any infirmity in the procedure would have crept in, which is not the case herein. Even such a ‘further inquiry’ has to be done by the same Inquiry Officer unless and until the said Inquiry Officer is unavailable or incapacitated to conduct the entire inquiry. The learned Tribunal cannot be faulted in holding that under Rule 15(1) of the CCS (CCA) Rules, 1965, the Disciplinary Authority may remit the case to the same Inquiry Officer and not to a new Inquiry Officer.”

46. Therefore, in light of the aforesaid reasons, no error can be found



with the impugned order of the learned Tribunal insofar as it agreed with the initial advice of the UPSC that the DA had committed an error in directing a further inquiry under Rule 15(1) of the CCS Rules.

47. Consequently, once the decision for a second inquiry stands vitiated, any further proceedings arising out of such inquiry, including the findings recorded therein and the consequential penalty imposed, also stand invalidated.

48. Having said so, we are compelled to observe that the manner in which the proceedings were, after second enquiry, pursued by the Petitioner clearly reflects an attempt to somehow secure dismissal of the Respondent. Despite repeated observations from the UPSC, DoPT and other departments that the course adopted by the DA was in fact a fresh inquiry, the matter continued to be carried forward till the stage where an advice favourable to the Petitioner came to be obtained and the major penalty of dismissal was imposed upon the Respondent.

49. We find it very strange that despite consistent concerns being expressed at various levels regarding the legality of the course adopted by the DA, the Petitioner continue to pursue the matter in a manner that clearly appears to us that it had been aimed at ensuring dismissal of the Respondent at all costs.

50. For the aforesaid reasons, we are not inclined to interfere with the order passed by the learned Tribunal.

51. Accordingly, the present petition is dismissed. Pending



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applications, if any, also stand disposed of.

52. The Petitioner shall comply with the impugned order passed by the learned Tribunal within four weeks from today.

OM PRAKASH SHUKLA, J

C.HARI SHANKAR, J

MAY 15, 2026/pa