

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

+ **W.P. (C.) No.146/2010**

% **Date of Decision: 12.01.2010**

The Secretary & Ors Petitioners
Through Mr.V.K.Rao and Mr.Karan Maini,
Advocates.

Versus

Sh.P.K.Subash Respondent
Through Mr.M.K.Bhardwaj, Advocate.

CORAM:

HON'BLE MR. JUSTICE ANIL KUMAR

HON'BLE MR. JUSTICE MOOL CHAND GARG

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| 1. | Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

ANIL KUMAR, J.

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The petitioner has challenged the order dated 3rd June, 2009 passed by the Central Administrative Tribunal, Principal Bench, New Delhi titled Sh.P.K.Subash v. Union of India and Ors allowing the petition of respondent and setting aside the minor penalty order dated 7th December, 2007 and order dated 30th May, 2008 and thus granting all consequential benefits to the respondent including promotion and arrears of pay.

The respondent while working as a Deputy Director (programme), DDK was served with a minor penalty charge memorandum dated 3rd April, 2003 alleging that he failed to scrutinize the proposal made by the programme executive for coverage of programme “Chahal Pahal” as per guidelines and recommended the same to the Director for approval, leading to financial loss to the petitioners. The charges against the respondent had pertained to the period 1999-2000.

Though the charges pertained to the period 1999-2000 and were promptly replied by the respondent, according to him the petitioners had belatedly sought the opinion of the Union Public Service Commission on 11th October, 2007 and thereafter passed the order dated 7th December, 2007 imposing a minor penalty. The revision filed by the respondent was also declined by order dated 30th May, 2008. The respondent challenged the memorandum of minor penalty inter-alia on the ground of inordinate delay of 3-4 years in issuing the minor penalty chargesheet and another 3-4 years in finalizing the whole matter. The respondent also contended that the guidelines relied on by the petitioners are generally applicable to news bulletins and not to programmed related to social and cultural events and, therefore, it could not be alleged that his act had resulted into violation of mandatory guidelines. The respondent had also challenged the memorandum of minor penalty on the ground that the proposal was

initiated by the programme executive after scrutinizing the various aspects involved in it and he had only forwarded and recommended to the Director who was overall incharge of the scrutiny. Though the Director was overall incharge of the scrutiny and responsible for taking the decision, the respondent contended that he has been let off without any punishment. He also contended that it was not his sole responsibility and relied on the Doordarshan's manual in support of his plea.

The Tribunal has relied on, after consideration of the facts and circumstances, delay of about 7-8 years in imposing the minor punishment and lack of any cogent explanation from the petitioners about the delay. The learned counsel for the petitioners is unable to give any sufficient reasons which will entitle the petitioners for condonation of delay. The Tribunal has noted that UPSC gave its advice by letter dated 11th October, 2007, however, this was pursuant to the letter of the petitioners dated 12th January, 2007. Since the incident is of 1999-2000, why the opinion/advice was sought in January, 2007 almost after 7 years has not been explained by the petitioners nor any reasons has been given.

The Tribunal has also noted that CVC guidelines provided two months period for minor penalty proceedings from the date of issue of

charge memorandum and receipt of its reply. The learned counsel for the petitioners has failed to give any explanation for inordinate delay of 48 months to conclude the minor penalty proceedings in compliance with CVC guidelines.

In the circumstances, the decision of the Tribunal to set aside the orders of the petitioners for minor penalties on account of inordinate delay which has remained unexplained cannot be faulted in the facts and circumstances.

The writ petition in the facts and circumstances is without any merit and it is, therefore, dismissed.

ANIL KUMAR, J.

JANUARY 12, 2010

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MOOL CHAND GARG, J.