

**LOKPAL OF INDIA**  
**Plot No.6, Institutional Area, Phase-II**  
**Vasant Kunj, New Delhi - 110070**  
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Complaint No. : 89/2023

Date : 02<sup>nd</sup> February, 2024.

**Coram** : **Justice Abhilasha Kumari**  
**Judicial Member**

**Shri Dinesh Kumar Jain**  
**Member**

**Shri Mahender Singh**  
**Member**

**ORDER**

Perused the O.M. dated 11.01.2024, submitted by the CVC in compliance with the Full Bench of Lokpal's Order dated 19.04.2023, enclosing therewith a copy of the report of the Preliminary Inquiry conducted by the Pr. DG(Vig.), CBIC, New Delhi.

2. The Full Bench of Lokpal had perused and considered a complaint dated 14.03.2023 against the then Joint Commissioner/Additional Commissioner, CGST, Ludhiana (hereinafter referred to as RPS-1) and two Superintendents of CGST, Ludhiana Commissionerate (the Superintendent in the account of whose relative an amount of Rs.50,000/- is alleged to have been deposited is referred to as RPS-2 and the other Superintendent who is posted in Preventive/Anti-Evasion Branch of Ludhiana CGST Commissionerate is referred to as RPS-3) for allegedly accepting the illegal gratification/bribes in cash and in bank account to clear GST refund files, forging documents, extortion of businesses by summoning them illegally without any pending inquiry, etc. By an Order dated 19.04.2023, the Full Bench of Lokpal had referred the complaint to the CVC for making a



Preliminary Inquiry under Section 20(1)(a) of the Lokpal & Lokayuktas Act, 2013 and submitting a report by 23.06.2023.

3. In compliance with the above-mentioned Order of the Full Bench of Lokpal, the CVC had submitted an Interim Report vide O.M. dated 20.06.2023. The CVC had also requested for extension of time for submission of Final Report which was granted by the Competent Authority.

4. The CVC, vide O.M. dated 13.10.2023 had submitted another Interim Report, requesting for extension of time for submitting the Final Report which was granted by the Competent Authority. After seeking few extensions, the CVC has now submitted the Final Report of the Preliminary Inquiry which is under consideration of this Division Bench.

5. We have carefully gone through the contents of the complaint as well as the report of the Preliminary Inquiry conducted by the Pr. DG(Vig.), CBIC dated 20.12.2023, submitted through CVC vide their O.M. dated 11.01.2024. It has been informed in the Preliminary Inquiry report that in addition to inquiring into the allegations, the comments of the public servants and approval of the Competent Authority has also been taken. The allegations levelled in the complaint dated 14.03.2023 by the complainant and the findings of the Preliminary Inquiry are tabulated below:-

<b>S.No.</b>	<b>Gist of Allegations</b>	<b>Findings of the Preliminary Inquiry</b>
1.	That the RPS-I while posted as Joint Commissioner (in-situ) was given posting in CGST Ludhiana East Division where major refund applications are filed. Although this is a Division and an officer of rank of DC/AC is posted as	<i>In-situ</i> promotion literally means a promotion permitted in the same seat and the CBIC order clearly directed the officers being promoted to assume the charge of the post of Joint Commission in the same office. Further,

	<p>Division Head but due to his discreet understanding with then Principal Commissioner CGST Ludhiana, he was posted as CGST Division Head.</p>	<p>promotion and postings in CBIC on <i>in-situ</i> basis is followed in all ranks/grades, till the regular posting orders are not issued by the competent authority. Thus, in the light of the facts stated above, the allegation that the RPS-I remain posted in CGST Division due to vested interests, does not appear to be sustainable.</p>
2.	<p>That the RPS-I asserted pressure on the complainant via other officers and himself to give him undue favour/gratification in respect of processing the refund application on time. The complainant was forced to visit the residence of the RPS-I at BRS Nagar on 04.05.2020 (during lockdown) to hand over PPE kits (without consideration).</p>	<p>The complainant has not provided any chat or any evidence substantiating that either the kits were delivered by him, or he was asked to pay any amount or he has made any financial transaction in this regard. Further, the said complaint has been made by the complainant only after his arrest by CGST Ludhiana Anti Evasion, for his alleged involvement in claiming bogus refund claims.</p>
3.	<p>That there was demand of illegal gratification (2-4% of the refund claim amount) by officials of CGST Ludhiana East Division for favourable processing and sanctioning of refund claims. That the officials of CGST Ludhiana East Division also told that if any firm wanted any illegal refund application to be passed,</p>	<p>It has been observed that the complainant has not provided any evidence to substantiate his allegation of seeking any undue gratification by any of the officers. He has mentioned a verbal communication without any proof which appears to be of no relevance.</p>

	then a higher amount of 30-40% of the refund amount claimed should be handed over to them.	
4.	In the subject matter, many complaints had been filed with the then Pr. Commissioner like the one by the complainant's professional colleague Shri Vaibhav (Email record is attached below for reference), as it appeared that Principal Commissioner himself was involved, no action was taken on these complaints.	It has been observed that the complaint stated in allegation was dealt with in accordance with the procedure prescribed in CBIC's Complaint Handling Policy. Further, CVC has time and again reiterated vide various circulars/OMs, that under no circumstances, should any investigation be commenced on anonymous/pseudonymous complaints. The complaint dated 25.06.2020 was filed on 29.12.2020 treating it as a pseudonymous complaint.
5.	That the illegal refund applications of 6 firms of Shri Sahil Jain were sanctioned. The 30-40% of the refund amount were taken from these parties while sanctioning the refund claims. These refunds were sanctioned by then Joint Commission viz. RPS-I along with the help of his technical/protocol Superintendent viz. RPS-2.	It has been observed that there were six taxpayers who had filed seven refund applications. In five cases, refunds were sanctioned on the merits of the cases and two refund applications were rejected. In fact, the RPS-I had not even sanctioned a single refund claim out of the 7 referred refund claims, albeit he dealt only one refund claim, which he rejected. The allegation of sanctioning of illegal refund claims in lieu of alleged commission of 30-40% of the

		refund amount, does not appear to be substantiated.
6.	That the bribe amount was accepted for sanctioning the refund applications filed in Division East of Ludhiana Commissionerate, which was under the then RPS-I and the RPS-2. The method of extorting bribe was in both ways i.e. cash and even bank transfer in the relative's accounts, through Computer Operators working in the Division viz. Shri Vikas Gupta and Shri Sagar Kumar. That amount of Rs.50,000 was transferred to one 'X' who is a relative of RPS-2 from the bank account of Shri Vikas Gupta	There is no proof or evidence available presently that can substantiate the allegations that Shri Vikas Gupta and Shri Sagar Kumar were working as computer operators in CGST Division East, Ludhiana. Shri Vikas Gupta vide his statement dated 04.09.2023 has stated that he was working as computer operator in CGST, Division East, Ludhiana but he could not produce any evidence which can support his statement. RPS-2 in his statement has submitted that he had given cash amounting to Rs.50,000/- to Shri Vikas Gupta to deposit in the account of his daughter but Shri Gupta transferred Rs.50,000/- through IMPS. Bank statement of Shri Vikas Gupta also bears the 'fee transfer' words for the transaction in question. The purpose of the said transaction appears to be same. Thus, merely saying that Rs.50,000/- were paid for saving the job without any substantial evidence is not at all acceptable. On further examination of the matter, the concerned division as

		<p>well as Hqrs. Office Ludhiana has confirmed that no person in the name of Vikas Gupta has been hired since 2018. However, the fact remains that an amount of Rs.50,000/- has been transferred in the bank account and the RPS-2 has not provided any evidence to substantiate that the money was paid in cash to deposit in bank account of his daughter. Further, in the absence of any material evidence to provide that this action was done in good faith, it appears that there is preponderance of probability in the matter enough to initiate disciplinary proceedings against RPS-2. It appears that by taking pecuniary advantage from Shri Vikas Gupta, the RPS-2 has violated Rules 3(1)(i), 3(1)(iii), 3(1)(vi), 3(1)(ix), 3(1)(xiv), 3(1)(xv) of CCS (Conduct) Rules, 1964 and accordingly, RDA for imposition of major penalty as per Rule 14 of CCS (CCA) Rules, 1965 is being recommended against RPS-2.</p>
7.	<p>That the complainant has alleged that illegal gratification was asked by the team of officers under RPS-I and when he stated that he would complain</p>	<p>It has been observed that the complainant has not provided any evidence to substantiate any allegation. He has stated a verbal communication without any</p>

	<p>personally to the then Pr./Commissioner, CGST, Ludhiana, he replied that farzi investigation will be launched against him and he will be put behind bars. After that the complainant reported this matter to Pr. Commissioner, who promised him to do something. But, later on, he was informed by his sources that Pr. Commissioner had called JC and told him to do something about him because until he is removed from the path, they would not be able to get illicit money from their clients.</p>	<p>proof which appears to be of no relevance. Further, the then Principal Commissioner passed away on 29.08.2021.</p>
<p>8.</p>	<p>That the complainant was illegally confined for 54 hours in custody by CGST Ludhiana Anti Evasion officials where RPS-3 was head of Anti Evasion Branch, without being informed of any reason and forced him to sign on Arrest Memo which was backdated to cover their illegal detention. That this Arrest Memo was without any DIN number and the part on which the complainant was to write about informing his arrest was allegedly written in the handwriting of Inspector (Forgery), who had illegally arrested him.</p>	<p>It has been observed that no evidence of confining him for 54 hours in custody has been submitted by the complainant. Further, the allegation of DIN on Arrest Memo seems not valid to the extent that the complainant was in the office premises on 11.11.2020 for tendering his statement and arrest memo was issued at the same time. The complainant had initially refused to sign the Arrest Memo and then later on eventually, it was signed by him when he was being taken to the Magistrate. Thus, the complainant himself here</p>

		appears to be at fault with respect to the apparent non-cooperation with the law enforcement agencies.
9.	That illegal summons were issued to complainant's various clients/parties, through one of the officers in preventive viz. RPS-3 under the directions of RPS-1 for extorting the money. That many of the firms submitted documents and tendered their statements before Anti Evasion officials. That after extorting money from them (clients/parties), these records were never diarized (making a case file). That these files were kept out of E-office (with intention to manipulate and destroy record as per will).	As per report dated 22.05.2023 of the Pr. Commissioner, CGST, Ludhiana, no complaint as regard to issue of summons and extortion of huge money as alleged has been filed by any person except the complainant, as per records available with Vigilance Section of the Commissionerate. However, when the complainant was asked by this office about the allegation of officers having extorted huge amount of money (In crores) from them (parties) by threatening them of raids/arrest, he stated that no direct evidence is there but the payment of money can be confirmed from the clients to whom summons were issued.
10.	That the investigation by Anti Evasion, CGST Ludhiana Commissionerate in respect of another case booked against M/s Modern Insecticides Pvt. Ltd. was not done properly for personal benefits. That the investigating officers in this case RPS-3 had pocketed the bribe money during the investigation. That Sh. Sahil	It has been observed that no evidence in respect of complaint filed with higher authorities by the complainant Shri Sahil Sharma (Authorized Representative of the party) and pressurizing him to take back the complaint has been provided by the complainant. Further searches were conducted in a



	<p>Sharma (authorized representative of M/s. Modern Insecticides Pvt. Ltd.) who made complaint against the investigating officer, was pressurized by CGST Ludhiana officials to take back the complaint.</p>	<p>lawful manner which resulted in recovery of huge amount and deposit in Govt. Exchequer. As per the enquiry report, Shri Sahil Sharma, CA could not produce any concrete evidence in order to prove the allegation of demand of money by RPS-3.</p>
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6. After having gone through the report of the Preliminary Inquiry conducted by the Pr. DG(Vig.), CBIC, as summarized in the foregoing paras, we observe that the Preliminary Inquiry report has found that the allegations levelled in the complaint against RPS-1 and RPS-3 could not be substantiated. RPS-2 is found to have violated Rules 3(1)(i), 3(1)(iii), 3(1)(vi), 3(1)(ix), 3(1)(xiv), 3(1)(xv) of CCS (Conduct) Rules, 1964 and accordingly, RDA for imposition of major penalty as per Rule 14 of CCS (CCA) Rules, 1965 is being recommended against him. We are inclined to accept the Preliminary Inquiry Report and close the complaint against RPS-1 and RPS-3. We also direct that CBIC shall submit an Action Taken Report on the proposed action against RPS-2 within a period of three months i.e. by 30.04.2024.

7. Before parting with this Order, we would like to observe that the issue of fraudulent availment of GST refund is a serious matter and a number of such cases have been recently reported in the Press. If the issue is not tackled effectively by the concerned authorities, it will not only lead to unnecessary and avoidable drain on the National Exchequer, but will also give a fillip to the unscrupulous elements to indulge in these nefarious activities with impunity. It, therefore, becomes imperative that a foolproof mechanism of checks and verification is put in place by the concerned authorities with the help of a robust IT system. We, therefore, direct CBIC to take effective steps in this regard, if necessary, by involving the IT platform i.e. GSTN. A compliance report of the action taken in this regard shall be submitted by the CBIC within a period of three months i.e. by 30.04.2024.



8. The Registry of the Lokpal is directed to send a copy of this Order to the Chairman, CBIC, for compliance.

9. With the above observations, the complaint stands disposed of.

  
(COURT MASTER)  
LOKPAL OF INDIA