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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1376/2002

Tuesday, this the 28th day of May, 2002

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri S.A.T. Rizvi, Member (A)

Krishna Murari Sharma
s/o Shri M.L. Sharma
c/o Shri Satyadeo
House No.D-2/79, Dayal Pur
Delhi-94

..Applicant

(By Advocate: Shri D.N.Sharma)

Versus

1. Union of India through the Secretary
to the Govt. of India,
M/O-Human Resources Development
Kendriya Vidyalaya Sangathan Wing
Shastri Bhawan, New Delhi
2. The Commissioner
Kendriya Vidyalaya Sangathan
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi - 16
3. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan
Regional Office, 92 - Gandhi Nagar Marg,
Bajaj Nagar, Jaipur - 302 015
4. The Principal
Kendriya Vidyalaya No.2
KOTA (Rajasthan)

..Respondents

O R D E R (ORAL)

Justice Ashok Agarwal:

By the present OA, applicant, who is working as a Librarian in Kendriya Vidyalaya No.2 Kota (Rajasthan), seeks to impugn an order of 30.4.2002/1.5.2002 Annexure-1 whereby he has been dismissed from service with immediate effect. The order, inter alia, provides that applicant has been found guilty of immoral conduct towards Km. Prakriti Aparajita, a girl student of class-II of the said Vidyalaya. The order makes a reference to a summary inquiry report submitted by the Assistant Commissioner,

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Regional Office, Jaipur, statements of the victim girl student and other students of the Vidyalaya, statements of the parents and the statements of the teachers ^{revealing} that the applicant is guilty of moral turpitude involving sexual offence and exhibition of immoral sexual behaviour towards the girl student. The order further provides that the Commissioner of the Vidyalaya is satisfied that the procedure of CCS (CCA) Rules, 1965 to hold regular inquiry is not expedient as the same may cause serious embarrassment to the girl student and her parents. The order thereafter provides that the evidence on record establishes the guilt of the applicant and hence his continuance in a co-educational institution is prejudicial to the interest of the students and the Vidyalaya. The order finally proceeds to provide that the Commissioner of the Vidyalaya in exercise of the powers under Article 81 (b) of the Education Code for KV's terminates the service of the applicant with immediate effect. Applicant has been held to be entitled to pay and allowances for one or three months in lieu of notice as admissible under rules.

2. We have heard Shri D.N.Sharma, the learned Advocate appearing in support of the OA. With his assistance, we have gone through the Article 81 (b) of the Education Code and we find no substance in the contention raised by the learned counsel that the order of dismissal from service cannot be sustained as applicant has not been given a show cause notice and as no inquiry whatever has been conducted against him in order to bring home the charge which is contained in the

order of dismissal from service. Article 81 (b) which is relevant for the proceedings at hand provides as under:-

"(b) Termination of Services of an Employee Found Guilty of Immoral Behaviour towards Students

Wherever the Commissioner is satisfied after such a summary enquiry as he deems proper and practicable in the circumstances of the case that any member of the Kendriya Vidyalaya is prima facie guilty of moral turpitude involving sexual offence or exhibition of immoral sexual behaviour towards any student, he can terminate the services of that employee by giving him one month's or 3 month's pay and allowances according as the guilty employee is temporary or permanent in the service of the Sangathan. In such cases procedure prescribed for holding enquiry for imposing major penalty in accordance with CCS (CCA) Rules, 1965 as applicable to the employees of the Kendriya Vidyalaya Sangathan, shall be dispensed with, provided that the Commissioner is of the opinion that it is not expedient to hold regular enquiry on account of serious embarrassment to the student or his guardians or such other practical difficulties. The Commissioner shall record in writing the reasons under which it is not reasonably practicable to hold such enquiry and he shall keep the Chairman of the Sangathan informed of the circumstances leading to such termination of services."

3. If one has regard to the aforesaid provisions of Article 81 (b) and the order of dismissal from service, we find that the order of dismissal from service cannot be faulted on the ground that no formal inquiry has been conducted in the matter. Provisions contained in Article 81 (b) are salutary. They are intended to take care of a situation like the one which has arisen in the present case. In cases where ^{there are} allegations of a serious nature involving in immoral conduct towards the girl student, involving sexual offence and exhibition of immoral sexual



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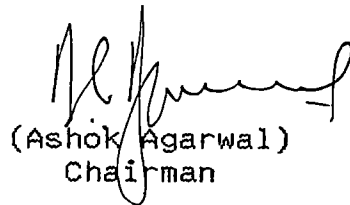
under the said Article 81(b)

behaviour, the necessity of holding a formal inquiry, is dispensed with and that too for good reasons, namely, to avoid embarrassment to the girl student and to the parents and to the Vidyalaya itself. In the aforesaid circumstances, we do not find the applicant is entitled to any relief.

5. Present OA, in the circumstances, fails and is dismissed. At this stage, the learned counsel for the applicant prays for withdrawal of the OA. Present OA is accordingly dismissed as withdrawn.



(S.A.T. Rizvi)
Member (A)



(Ashok Agarwal)
Chairman

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