

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1466/2002

New Delhi, dated this the 8th day of April, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri S.K. Malhotra, Member(A)

Ms. Rajbala
5911, Gali No.3, Block No.4
Dev Nagar, Karol Bagh, New Delhi .. Applicant
(Shri Raman Kapur, Advocate)

versus

Govt. of NCT of Delhi, through

1. Chief Secretary
Sham Nath Marg, Delhi
2. Secretary Education
Old Secretariat, Delhi
3. Director of Education
Old Secretariat, Delhi
4. L.P. Singh
Principal, Govt. Girls SS School
Dayal Pur, Delhi
5. Ajit Singh, Vice-Principal/HOD
Govt. Coeducation SS School Shift
Tukhirkpur, Nehru Vihar, Delhi .. Respondents

(Shri George Paracken, Advocate)

ORDER(oral)

Shri Justice V.S. Aggarwal

On 11th March, 2003, learned counsel for the applicant stated that he would not press for the relief pertaining to the transfer of the applicant and he may be permitted to file a separate application. That prayer was allowed. Therefore we are not passing any order on this relief.

2. By virtue of the present application, the applicant Ms. Rajbala seeks quashing of the office memorandum dated 22.4.2002 of Respondent No.4. Subsequently, by virtue of an amended application, applicant was seeking

VS Aggarwal

quashing of order dated 27.7.2002 whereby a recordable warning on the same facts has been awarded to the applicant. 18

3. During the course of the submissions, certain facts which are not disputed are that the Department had conducted a fact-finding enquiry. It is not in dispute that CCS(CCA) Rules, 1965 are applicable. It is also not disputed that procedure for imposing major or minor penalty was not adopted while imposing the penalty.

4. Learned counsel for the respondents still contended that there is a clear distinction between 'Censure' and 'warning' and therefore procedure for minor penalty was not to be adopted.

5. We have carefully gone through the relevant records. Perusal of the same clearly shows that it was alleged against the applicant that she misbehaved with the Vice-Principal of Govt. Co-Ed. SS School, Tukhmipur, Delhi, tore the attendance sheet and refused to give him the attendance register. On this, a fact-finding enquiry was proceeded. The distinction between Censure and warning is obvious. In case of censure, it can be a recordable warning if the person concerned has been guilty of some blameworthy act or omission for which it has been found necessary to award him a formal punishment. Nothing can amount to a censure unless it is intended to be such a formal punishment and imposed for good and sufficient reason after following the prescribed procedure.

MS Agarwal

(3)

6. The nature of punishment clearly shows that the Department felt that the conduct of the applicant was blameworthy which resulted in recordable warning. Required procedure must be followed before imposing the penalty. Procedure permissible under the Rules referred to above should have been adhered to. Obviously, this has not been done. Therefore, we hold that the impugned orders cannot be sustained.

5. Resultantly, we quash the impugned orders and direct the department, if deemed fit, to issue a fresh order in accordance with law against the applicant.

6. Subject to the aforesaid, OA is disposed of.

Omgo
(S.K. Malhotra)
Member(A)

Ag
(V.S. Aggarwal)
Chairman

/gtv/