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Central Administrative Tribunal
Principal Bench

O.A. No. 1646 of 2002

New Delhi, this the 8th day of August, 2002

HON'BLE MR. GOVINDAN S.TAMPI MEMBER (A)

Shri Ashok Kumar
S/o Late Shri Kumar Chand,
Working as Chowkidar,
Kendriya Vidyalaya,
Gole Market, New Delhi.
(By Advocate: Shri D.S.Mahendru)

Versus

Kendriya Vidyalaya Sangathan, through

1. The Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Saheedjeet Singh Marg,
New Delhi.
2. Principal,
Kendriya Vidyalaya,
Gole Market,
New Delhi. ... Respondents.
(By Advocate: Shri S.Rajappa)

ORDER (ORAL)

This OA is filed against the order dated 4.6.2002 passed by the respondent No.2, Principal of Kendriya Vidyalaya, Gole Market, imposing on the applicant the penalty of recovery of Rs.48,000/- by instalments of Rs.1000/-.

2. Heard S/Shri D.S.Mahendru and Shri S.Rajappa, learned counsel appearing on behalf of the applicant and the respondents respectively.

3. The applicant who joined Chowkidar in August 1992 in Kendriya Vidyalaya, Delhi Cantt. was transferred to Kendriya Vidyalaya, Gole Market in July, 1994. It was found that on the night of 24/25.1.1997, when the applicant was on guard duty

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certain items of the computer system were stolen/missing from the computer room of the School. No inquiry was apparently made and the applicant continued to be performing his duties. However, by the impugned order dated 4.6.2002 issued by the Respondent No.2, ^{Recovery} of Rs. 48000/- by instalments of Rs.1000/- per month was ^{directed to} from the salary of the the applicant. ^{Shri} Mahendru appearing on behalf of the applicant states that the order which is totally punitive was illegal as no inquiry had been gone through. It fact neither any enquiry report was given to him nor any charge-sheet issued. There was thus, total violation of the principles of natural justice and administrative procedures. The order, therefore, deserved to be quashed and set aside, pleads Shri Mahendru.

4. Respondents have not filed any counter. Shri S.Rajappa, learned counsel appearing on behalf of the respondents states that what has been done by the Respondent No.2, Principal was not strictly in accordance with the procedure. He placed before me an inquiry report conducted by Superintendent (Administration) K.V.S. (DR) in connection with the particular incidence wherein it has been recommended that suitable action as per rules may be initiated against the applicant. Shri Rajappa, therefore, requests that the respondents may be permitted to act in accordance with the procedure and that the impugned order may not be set aside.

5. I have carefully considered the matter. By the impugned order dated 4.6.2002, it has been directed to recover an amount of Rs.48,000/- by monthly instalments of Rs.1000/- from the salary of the applicant. It is found that this order, which is punitive in nature has been issued without following the necessary proceedings, wherein the applicant was given a chance to explain his case. Enquiry report from the Superintendent (Admn.) also makes it clear. The impugned order is, therefore, clearly vitiated and deserves to be set aside. This cannot, however, preclude the respondents from taking legitimate action as provided in law.

6. The OA in the above circumstances succeeds and is accordingly allowed. The impugned order dated 4.6.2002 is quashed and set aside and the stay as further recovery of alleged dues ^{if any} from the applicant is made absolute. This order does not prohibit the respondents from taken any action in accordance with law to deal with the loss suffered by the organisation when the applicant was on duty. Proceedings may be initiated, if so advised, from the stage of submission of the report submitted by the Superintendent (Admn.). No costs.

(Govindan S. Tampi)
Member(A)

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