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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 1496/2001

This the 19th day of April, 2002

HON'BLE SH. KULDIP SINGH, MEMBER (J)
HON'BLE Sh. S.A.T.RIZVI, MEMBER (A)

R.S.Shastri
N-3/33A, Karamjitpur (Sunderpur)
P.O. - Susuwahi - 221005,
Varanasi (U.P.)
(By Advocate: Sh. S.K. Aggarwal)

Versus

1. Kendriya Vidyalaya Sangathan
Through its Commissioner,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110016.
2. The Vice Chairman
Kendriya Vidyalaya Sangathan
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110016.
(By Advocate: Sh. S.Rajappa)

O R D E R (ORAL)

By Sh. Kuldip Singh, Member (J)

Applicant in this OA has challenged order Annexure A-1 vide which his services have been terminated by Commissioner, Kendriya Vidyalaya Sangathan in exercise of his powers under Article 81 (b) of the Educational Code of Kendriya Vidyalaya Sangathan. Applicant has preferred an appeal against the said order which was rejected by Annexure A-2. The case of the applicant is that he was appointed as TGT on 21.10.93 (Annexure A-4) in the Kendriya Vidyalaya, Kedlanagar, Hazaribagh and subsequently he was transferred to various stations. But impugned order is stated to have been passed on the ground that the applicant has indulged in certain immoral acts and has been prima facie found guilty of moral turpitude involving sexual behaviour towards girl students of Class-Vth of Kendriya Vidyalaya, Rupa during the course of examination being conducted in the class. A summary enquiry was also conducted and during the enquiry the applicant was found

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guilty so the Commissioner exercised his power under Article 81(b) and terminated the service of the applicant.

2. In order to challenge the same the applicant has taken the ground that Resp.2 has erred to see the charge, as motivated one and based on an incident allegedly committed on 4.5.2000 during the course of examination which was conducted in one period of class Vth students which is such a short period during which such like act could not have been committed. It was only a short duration of 35 minutes when the examination is to be conducted and 42 students were put to examination. It is further stated that the applicant hardly found any time in such a duration of class test to do any misbehaviour. Besides that applicant also submits that since the applicant has become a permanent employee the department should not have resorted to Article 81(b) and regular enquiry as per CCS (CCA) Rules should be conducted.

3. In reply to this, the learned counsel for the respondents submitted that the ground as taken up by the applicant have no merits as the respondents have given the sequence of events as it has taken place in this case and found during the enquiry. He stated that the Principal of Kendriya Vidyalaya, Rupa received a complaint from Mrs. S.Tiwari another Teacher of the same Vidyalaya regarding misbehaviour of the applicant with six girl students of class V on that day in the class room. The Principal constituted a committee of six teachers. The committee gave a report that the applicant was involved in molesting the girl students (touching their private parts). The Principal thereafter reported the matter to the Assistant Commissioner on which the action has been taken. The



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respondents had also brought the file of the department which contains the complaint made by PRT and the statements of the girl students have also been recorded therein.

4. We have gone through the record and we are satisfied that the action taken by the department under Article 81(b) is quite justified. Though the applicant has submitted that regular enquiry should have been held because the applicant had become a permanent employee but the counsel for the respondents in response to the same has relied upon the judgment (1997) 2 SCC 534 in case of Avinash Nagra vs. Navodaya Vidyalaya Samiti and others wherein it has been held as under:-


"Before answering the question whether the order terminating the services of the appellant in terms of his appointment letter is in violation of the Rules or the principles of natural justice, it is necessary to consider the need for the education and the place of the teacher in that behalf. Article 45 of the Constitution enjoins the State to endeavour to provide free and compulsory education to all children, till they complete the age of 14 years. The Supreme Court has held that right to education is a fundamental right and the State is required to organise education through its agencies or private institutions in accordance with the law and the regulations or the scheme. The State has taken care of service conditions of the teacher and he owes dual fundamental duties to himself and to the society. As a member of the noble teaching profession and a citizen of India he should always be willing, self-disciplined, profession and a citizen of India he should always be willing, self-disciplined, dedicated with integrity to remain ever a learner of knowledge, intelligently to articulate and communicate and imbibe in his students, as social duty, to impart education, to bring them up with discipline, inculcate to abjure violence and to develop scientific temper with a spirit of enquiry and reform constantly to rise to higher levels in any walk of life nurturing constitutional ideals enshrined in Article 51-A so as to make the students responsible citizens of the


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country. The quality, competence and character of the teacher are, therefore, most significant to mould the calibre, character and capacity of the students for successful working of democratic institutions and to sustain them in their later years of life as a responsible citizen in different responsibilities.

Education to the girl children is nation's asset and foundation for fertile human resources and disciplined family management, apart from their equal participation in socio-economic and political democracy. Only of late, some middle-class people are sending the girl children to co-educational institutions under the care of proper management and to look after the welfare and safety of the girls. Therefore, greater responsibility is thrust on the management of the schools and colleges to protect the young children, in particular, the growing up girls, to bring them up in disciplined and dedicated pursuit of excellence."

5. It shows that in such like case of moral turpitude a regular enquiry can be dispensed with under Article 81(b) of the Education Code as applicable in the Kendriya Vidyalaya. From the facts of the present case also we find that the department is quite justified because the students who are the victim in this case are of class V and are of tender age and it is not reasonably practicable to hold a regular enquiry in such like cases. We find no fault in the impugned order. So no interference is called. OA is, accordingly, dismissed. No costs.


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


(KULDIP SINGH)
Member (J)

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