

Central Administrative Tribunal  
Principal Bench: New Delhi

OA No. 1728/95

New Delhi this the 3rd day of January 2000

Hon'ble Mr. Justice V. Rajagopala Reddy, VC (J)  
Hon'ble Mr. R.K. Aahooja, Member (A)

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V.S. Jain  
S/o Shri Balwant Singh,  
Ex. Trained Graduate Teacher,  
Govt. Boys Middle School,  
Old Seelampur, Delhi.

...Applicant

(By Advocate: Shri A.K. Bhardwaj)

Versus

1. Delhi Administration/National Capital Territory of Delhi: through its Chief Secretary, 5, Alipur Road, Delhi.
2. The Secretary, Education National Capital Territory of Delhi, Old Secretariate, Delhi.
3. Director of Education, Delhi Administration/ National Capital Territory of Delhi. Old Secretariate, Delhi.

(By Advocate: None)

...Respondents

ORDER (Oral)

By Reddy, J.-

The applicant, while working as TGT in Government Boys Sr. Secondary School Kanti Nagar, was served with the Memorandum of charges dated 27.10.89. Three articles of charge were levelled against him. They read as under:-

Article-I That while working in GBSS Kanti Nagar, Delhi during the Academic Year-1988-89 Shri V.S. Jain TGT threatend many of the student to declare them fail in case they do not take tution from him. This act on the part of Shri V.S. Jain is unbecoming of the Govt. servant and this violation of rule 3 of the CCS (Conduct Rules) 1965.

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Article-II That while working as TGT (G) in G.B. S.S. Kanti Nagar during the academic year 1988-89 Shri V.S. Jain refused comply with the verbal orders given by the V.PL. of the said school to examine the answer sheet of class IX of the said school. This is insubordination on the part of Shri V.S. Jain TGT (G) is unbecoming of the Govt. Servant and violation of the Rule 3 of the CCS (Conduct Rules) 1965.

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Article-III That while working as TGT (G) in G.B.S.S. Kanti Nagar, Delhi Shri V.S. Jain tried to threatend the staff by bringing two strong man on 1.4.89 and took them around the school on being enquired of the matter in the meeting of the teachers Shri V.S. Jain shouted at the top of his voice using unparliamentry language. This behaviour on the part of Shri V.S. Jain is unbecoming of a Govt. Servant violation of rule 3 of the CCS (Conduct Rules) 1965".

2. An enquiry was held against him under CCS

(Conduct Rules) 1965. An Enquiry Officer has been appointed who examined several witnesses and submitted his report on 30.4.92 to the Disciplinary Authority. The Disciplinary Authority, having agreed with the findings of the Enquiry Officer, removed the applicant from service vide order dated 17.9.92. The applicant challenged the validity of the order by filing the OA No. 2460/92 before the Principal Bench of the Tribunal. The only question that was urged before the Tribunal was that the order of removal was vitiated as the applicant was not furnished a copy of the Enquiry Officer's report before passing the impugned order. The Tribunal quashed the impugned order, directing the respondents to furnish a copy of the Enquiry Officer's report and if they so choose, to conduct a fresh enquiry from the stage of giving an opportunity to the applicant to make a representation of the Enquiry Officer's report. Accordingly the applicant was furnished the Enquiry Officer's report and a fresh

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enquiry has been conducted from that stage. The Disciplinary Authority considered the representation made by the applicant to the Enquiry Officer report and agreeing with the findings of the Enquiry Officer, passed the impugned order directed withholding of the increments for two years with cumulative effect. The applicant filed an appeal against the order of the Disciplinary Authority but the Appellate Authority rejected the appeal by order dated 1.5.95. The order of the Disciplinary Authority and the Appellate Authority are now under challenge in this OA.

3. It is contended by the learned counsel for the applicant that the Disciplinary Authority has not applied his mind in passing the impugned order. He contends that the Enquiry Officer has not at all considered the evidence on record in arriving at the conclusion that the applicant was guilty of the charges.

4. We have considered the arguments advanced by the learned counsel for applicant. None appeared for the respondents, though the case has been adjourned several times.

5. The only short question that has to be considered is whether the Enquiry Officer or the Disciplinary Authority has considered the evidence on record in passing the impugned order. We have closely perused the Enquiry Officer's report. The enquiry officer has only narrated the fact of examination of the prosecution witnesses and the said witnesses having been cross- examined by the applicant but we do not find any discussion of the evidence that has been gathered by the Enquiry Officer and the analysis made by him of the evidence. He has only stated that the

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case of the prosecution has been proved since no witness has been examined by the applicant to refute the charges levelled against him. It is necessary for the enquiry officer to consider the evidence of prosecution and to find how the evidence of prosecution has established the charges against the applicant. The conclusions of the enquiry officer should be supported by the reasons to be given by him. No such consideration is made in this case. We are, therefore, convinced that there is sufficient force in the contention of the learned counsel that the enquiry officer did not apply his mind to the evidence on record at all. Even the Disciplinary Authority has not made any attempt either to notice the evidence on record or to consider the said evidence in agreeing with the findings of the enquiry officer. Thus we are satisfied that this is a case of non-application of mind by the enquiry officer as well as by the Disciplinary Authority. We also do not find any analysis of the evidence by the Appellate Authority in rejecting the appeal.

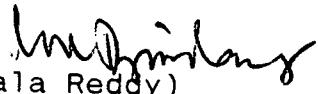
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6. In the circumstances, we quash the impugned orders of the Disciplinary Authority as well as the Appellate Authority. Since the applicant is now retired from service, we direct the respondents to release the increments of the applicant within a period of three months from the date of receipt of a copy of this order.

7. The OA is accordingly allowed. No costs.

  
(R.K. Ahuja)  
Member (A)

cc.

  
(V. Rajagopala Reddy)  
Vice-Chairman (J)