

Central Administrative Tribunal
Principal Bench

O.A. 2703/2000

New Delhi this the 14th day of September, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (A).
Hon'ble Shri Govindan S. Tampi, Member(A).

Dr. Pushkar Saxena,
2660, Lane No. 17,
KailashNagar,
Delhi-110031.

... Applicant.

(None present)

Versus

1. Govt. of NCT of Delhi,
through its Chief Secretary,
5, Sham Nath Marg, Delhi.
2. Principal Secretary (Education),
Govt. of NCT of Delhi,
Old Secretariat, Delhi.
3. Director of Education,
Govt. of Delhi,
Old Secretariat, Delhi.
4. Principal,
Govt. Boys Sr. Sec. School,
Lalita Park,
Delhi-92.
5. Mrs. Kala Sorath,
Govt. Girls Sr. Sec. School,
Lalita Park, Delhi-92.

... Respondents.

(By Advocate Shri George Paracken)

O R D E R (ORAL)

Hon'ble Shri Govindan S. Tampi, Member(A).

None for the applicant is present today. On previous occasions also, that is, on 6.8.2001 and 29.8.2001, none had appeared. In this view of the matter, we proceed to dispose of this case under Rules 15 and 16 of the Central Administrative Tribunal (Procedure) Rules, 1987.

2. The applicant in this case has challenged the orders dated 2.12.1996, initiating disciplinary proceedings

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against him; that dated 27.3.2000 by the disciplinary authority, imposing upon him the penalty of dismissal from service and that dated 5.10.2000 by the appellate authority converting the punishment to one of compulsory retirement. The applicant, a Post Graduate Teacher (hereinafter referred to as "PGT") under the Delhi Administration, was charge-sheeted on 2.12.1996 for his alleged misbehaviour with the girl students of the Govt. Girls Model Senior Secondary School No. 1, Gandhi Nagar where he was working. The inquiry proceedings were held against the applicant and the Inquiry Officer held that the charge stood proved against him, following which by order dated 27.3.2000, he was dismissed from service. On the appeal being filed against the same by the applicant, the appellate authority converted, the penalty of dismissal from service to one of compulsory retirement. In this O.A., the applicant states that the proceedings initiated against him were mala fide and arbitrary, as he was not given any opportunity to cross-examine any of the witnesses, i.e. girl students whom he is alleged to have misbehaved with. The applicant also avers that without supplying him a copy of the complaints made by girl students and on the basis of statements recorded from them as his back, the Inquiry Officer gave his report accepting which the disciplinary authority had imposed him the punishment of dismissal from service which was converted later by the appellate authority to one of compulsory retirement. Thus he was dealt with in a totally improper and arbitrary manner which called the Tribunal's interference to vindicate his honour.

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3. The respondents in their reply have submitted that no law abiding citizen is expected to behave in the manner the applicant had done, much less a teacher who was entrusted with the sacred job and responsibility. His action has brought the teachers profession and the name of the organisation where he was working into total disrepute. Under normal circumstances, even without holding any inquiry proceedings, his services could have been terminated but the respondents had conducted the inquiry proceedings and only after the Inquiry Officer gave his report that the charge stood proved, the penalty of dismissal from service was ordered. The appellate authority has carefully considered the pleas raised in the appeal submitted by the applicant and keeping in mind certain irregularities in the procedure and has taken a lenient view and converted the extreme penalty of dismissal to one of compulsory retirement. In the circumstances, Shri George Paracken, learned counsel, has submitted that the Tribunal should not interfere with the findings of the Inquiry Officer or competent authority where they are not arbitrary or utterly perverse. Learned counsel has relied on the judgement of the Supreme Court in **Avnish Nagra Vs. Navodaya Vdyalaya Samiti, etc.** (JT 1996(10)SC 461).

4. We have carefully considered the matter. Particularly as the applicant was not present we have perused the records and the grounds taken to dispose the O.A. strictly on merits. We find that the respondents after conducting preliminary investigations with the girl students with whom the applicant is alleged to have misbehaved and after holding the inquiry proceedings came to conclusion that this is a case which warranted dismissal

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from service. However, the appellate authority has converted the penalty to one of compulsory retirement because there were some irregularities in procedure adopted by the Inquiry Officer. The same cannot be assailed. We are fortified in this context by the judgement of the Hon'ble Supreme Court in **Avinash Nagra's** case (supra); wherein it has been held, inter alia:

"The question arises: whether the conduct of the appellant is befitting with such higher responsibilities and as he by his conduct betrayed the trust and forfeited the faith whether he would be entitled to the full-fledged enquiry as demanded by him. The fallen standard of the appellant is an ice berg in the discipline of teaching, a noble and learned profession; it is for each teacher and collectively their body to stem the rot to sustain the faith of the society reposed in them. Enquiry is not a pannacea but a nail on the coffin. It is self-inspection and correction that is supreme.....".

5. The respondents have gone out of the way to provide opportunity to the applicant to explain his misconduct. The Inquiry Officer has correctly held that the charge of his misbehaviour stood proved and the disciplinary authority has observed that the allegations that have been proved against the charged official revolve around harassment, misbehaviour of girl students in his class involving indecent behaviour. He further held that normally such complaint is not made by the girl students unless there are compulsions and they are pushed to the wall as allegations create defamation of the girl students who come forward to complain of such indecent misbehaviour. The charged official has not stated anything in his defence or any motive on part of complaints and as such misdemeanour on the part of the charged official of severest order has been established. It was in this context that the extreme penalty of dismissal from service was imposed. However, the

appellate authority after going into the grounds raised in the appeal has stated that certain procedural lapses have been committed by the Inquiry Officer but there are statements which clearly indict the applicant. Therefore, taking the balanced view of the case as a whole, the appellate authority stated that the ends of justice would be met if the penalty imposed by the disciplinary authority is reduced to the extent that he is retired compulsorily from service. In the circumstances, we do not find that there is any ground for assailing the orders impugned in this case by the applicant. This was the only course of action which the respondents could have taken in the circumstances of the case to uphold the fair name and dignity of the organisation and that of the teachers profession. We do not find, while exercising our judicial review, any ground to interfere with the action of the respondents. O.A. in the above view of the matter fails and is accordingly dismissed. No costs.

(Govindan S. Tampi)
Member (A)

SRO

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice Chairman (J)