

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
O.A. No. 050/00300/2020**

Date of Order: 14.01.2021

C O R A M

**HON'BLE MR M.C. VERMA, MEMBER [J]
HON'BLE MR. S.K. SINHA, MEMBER [A]**



Lal Bahadur Yadav, s/o Shri Mahavir Yadav, R/O- Village+ P.O.- Chikni Fulkaha, P/S-Gamaharia, District-Madhjepura, Bihar. Also R/o-C/o chandan Kumar, (Branch Manager), Ward No.1, Rahikpur, PO-Araria, Bihar-854312, Ex Sub Staff (Group-D), Araria, Bihar-854312.

..... Applicant.

By Advocate :- Shri Ravi Shankar Jha.

-Versus-

1. The Union of India through Secretary, Ministry of HRD, 302-C, Shastri Bhawan , New Delhi.110001.
2. Commissioner, Kendriya Vidyalay Sangathan, 18, Institutional Area, Saheed Jeet Sing Marg, New Delhi-110016.
3. Deputy Commissioner, Kendriya Vidyalay Sangathan, Regional Office, Lohiya Nagar, Kankar Bagh, Patna-800020.
4. Assistant Commissioner, Kendriya Vidyalay Sangathan, Regional Office, Lohiya Nagar, Kankar Bagh, Patna-800020.
5. Principal, Kendriya Vidyalay, Arariya, PO- Arariya, PS-Arariya, Distt. Arariya, Bihar, PIN-06453.

..... Respondents.

By Advocate :- Shri G.K. Agarwal.

**ORDER (ORAL)
Per M.C. Verma, M[J]**

1. Being aggrieved by the Order dated 06.11.2019 passed by Principal-cum-Disciplinary Authority, Kendriya Vidyalaya, Araria, whereby punishment of dismissal from service has been inflicted, and being aggrieved by Order dated 14.05.2020 passed by Assistant Commissioner-cum-Appellate Authority, Kendriya Vidyalaya

Sangathan, whereby appeal of the respondent has been rejected, instant OA has been preferred by the applicant.

2. The crux of the OA, in short is that applicant was appointed in year 1986 against Group- D Regular post, with Kendriya Vidyalaya Arunachal Pardesh and in year 2006 he was transferred as Orderly in Saharsa Kendriya Vidyalaya. That some foul activities for admission were being done in Saharsa Kendriya Vidyalaya, by the seniors of the applicant, applicant was not involved in those activities. That on 20/11/2006 an FIR against sixteen parents having allegations that they got their ward admitted in the Vidyalaya on strength of forged documents/transfer certificate was registered. That on 4/12/2006 a complaint case No. 1280/2006, u/s 467, 468, 474, 420, 120, 323 & 504 IPC was instituted by the parents on the file of Chief Judicial Magistrate, Saharsa against ten staff member of the Vidyalaya regarding admission through back door entry during the period from April 2005 to 22/11/2006. That there was no specific allegation against the applicant in the complaint but on the basis of the allegation that he while was working at Kendriya Vidyalaya Sangathan, Saharsa during year 2005-06, accepted the bribe from eleven parents of students, to help them in securing admission by producing forged T.Cs from other Kendriya Vidyalaya and forged letters of approval of Assistant Commissioner & Administrative Office of Patna Region, departmental proceeding under for violation of Rule 3(1)(i)(ii) (iii) of CCS (Conduct) Rules 1964 was initiated against him in year 2008. That departmental inquiry was done in



violation of principle of natural justice and several irregularities erupted therein and applicant was hold guilty. That on the basis of inquiry report applicant was wrongly dismissed from service and the appeal preferred by the applicant has also been dismissed whimsically, and hence is the OA.

3. Notice on OA was issued; respondents contesting the matter has filed the reply. It is the stand of the respondents that a criminal case was also registered against the applicant. That no violation of procedure was there during inquiry and the punishment has rightly been inflicted upon the applicant and that there is no merit in the case and may be dismissed.

4. The matter was admitted on last date and has been heard for final hearing today. Learned counsel for applicant while pressing the OA contended that there is inordinate delay in conclusion of departmental proceedings, the so called Disciplinary Authority which has inflicted punishment vide order dated 06.11.2019 was not competent as the applicant had been promoted to Group-C post and his Disciplinary Authority could not be the Principal so the Order of the Disciplinary Authority on this score is liable to be quashed. He also submits that departmental inquiry was conducted in violation of principle of natural justice and without considering all his contentions in true prospect, appeal has been rejected.

5. Counsel for respondents countered the submission that there was violation of principle of natural justice during inquiry; however, he did concede that inquiry remained pending for years. He



also submitted that against the order of Appellate Authority, Revision was lying but no Revision was preferred by the applicant and, therefore, the OA being premature may be dismissed on this score. It is not disputed by counsel for applicant as well that Revision can be filed against the order of Appellate Authority.

6. Sufficient material is not there on the record to ascertain as to what happened to other officials/officers of Saharsa School involved in admission scam and what finally happened in criminal case. It cannot be possible by Orderly alone to do admission in the Vidyalya on strength of forged documents/ transfer certificate or to do admission through back door entry.

7. Having taken note of entirety and facts that the applicant is an low category employee, entered in service as Group-D employee and at the time of alleged incident was on the post of Orderly, we think it would be appropriate if Revisionary Authority is given an opportunity to consider the matter in its entirety and to pass a reasoned and speaking order therein. As applicant is a Group-D or Group-D employee and is no more in service now, hence in interest of justice, it also deem fit and proper to direct the respondent to treat this OA itself as Revision Petition.

8. Accordingly the Revisionary Authority, which is stated to be. Respondent No.3, (Deputy Commissioner, Kendriya Vidyalay Sangathan, Regional Office, Lohiya Nagar, Kankar Bagh, Patna) to consider treat this OA as Revision Petition of the applicant and to pass



a reasoned and speaking order within four months from the date of receipt of a copy of this order.

9. With above observations and directions, OA stands disposed of.

[Sunil Kumar Sinha]

Member [A]

[M.C. Verma]

Member [J]

Bp/

