

(B)

Central Administrative Tribunal, Principal Bench, New Delhi

O.A.No.1196/2004

Hon'ble Mr. Justice V.S. Aggarwal, Chairman  
Hon'ble Mr.S.A. Singh, Member(A)

New Delhi, this the 21st day of December, 2004

V.C. Jain,  
S/o (Late) Shri Gangadhar Jain,  
Principal Kendriya Vidyalaya No.2,  
Jhansi(Retd.)

.....Applicant

(By Advocate: Shri M.K. Bhardwaj)

Versus

Union of India & Ors.,

1. The Secretary,  
Ministry of HRD, Deptt. of Education (S.E. & H.E.),  
Shastri Bhawan,  
New Delhi-1
2. The Chairman,  
K.V.S., Shastri Bhawan,  
New Delhi.
3. The Commissioner,  
Kendriya Vidyalaya Sangathan,  
18, Institutional Area,  
Shaheed Jeet Singh Marg,  
New Delhi-16
4. Shri Puran Chand,  
Deputy Commissioner (Admn.)  
KVS, New Delhi

....Respondents

(By Advocate: Shri S. Rajappa, for respondents 2-4)

Order(Oral)

Justice V.S. Aggarwal, Chairman

The applicant was a Principal in Kendriya Vidyalaya No.2 at Agra Cantt. He was served with certain Articles of Charge. The enquiry officer had been appointed. He held that the charges stood proved. Meanwhile the applicant had superannuated on 30.9.99. The disciplinary authority imposed a penalty of 25% cut in his pension for a period of two years.

(S Ag)

2. By virtue of the present application, the applicant seeks to assail the findings of the enquiry officer and the orders that have since been passed.

3. In all fairness to both the parties' counsel, we make it clear that though certain submissions were made pertaining to merits of the matter but it was urged that the enquiry officer himself had made certain complaints and, therefore, he could not be the enquiry officer and on this count, prejudice is caused to the applicant.

4. Since on this particular plea, we are allowing the present O.A., we are not expressing ourselves on any other contention.

5. Principles of natural justice have made deep in-roads into our jurisprudence. Two basic principles of natural justice often highlighted are -

(a) a person should not be condemned unheard; and

(b) a person should not be a Judge of his own cause.

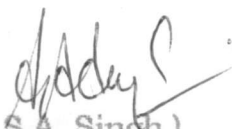
6. It is the second plea which we have referred to above which is being pressed. Perusal of the record reveals that certain letters pertaining to the alleged dereliction of duty had been written by the Assistant Commissioner Shri R.K. Jain. Later on the same person had been appointed as the enquiry officer. The applicant even had objected to it but his request had been rejected by the disciplinary authority.

7. Once some of the complaints had been made by Shri R.K. Jain, in all fairness he should not have been the enquiry officer and, therefore, the applicant rightly contends that prejudice is caused to him in terms that he did not get a fair opportunity in this regard.

8. We hasten to add that prejudice of course is a term which goes with the facts and circumstances of each case. In the present case, since Shri R.K. Jain had made certain complaints and later on was appointed as an enquiry officer, prejudice would be writ large in the peculiar facts of the present case.

LS Ag

9. Resultantly, without expressing ourselves on any other controversy, we quash the impugned orders that direct that from the stage the enquiry officer was appointed, the disciplinary authority, if deemed appropriate, may appoint any other enquiry officer. It is directed that if the enquiry officer is to be appointed, enquiry should be completed preferably within six months subject to applicant co-operating in the same. Consequential benefits should be paid to the applicant.

  
( S.A. Singh )  
Member(A)

/dkm/

  
( V.S. Aggarwal )  
Chairman