

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

O.A. NO.927/2004

This the 16th day of December 2004.

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Smt. Laxmi Tiwari, TGT (Hum)
W/O S. A. Mahadevan,
R/O CST Sonada,
District Darjeeling,
West Bengal – 734219.
Presently serving in CST
Chandragiri (Orissa).

... Applicant

(By Shri N.L.Bareja, Advocate)

versus

1. Union of India through
Secretary, Ministry of HRD
(Deptt. Of Education),
Shastri Bhawan,
New Delhi-110001.
2. Joint Secretary,
Government of India and the
Chairman, CTSA, Deptt. Of Education,
HRD, Shastri Bhawan,
New Delhi-110001.
3. Secretary, CTSA,
Plot No.1, Ess Ess Plaza,
Community Centre Sector 3,
Rohini, Delhi-110085.

... Respondents

(By Shri Anil Srivastava, Advocate for respondents 2 & 3; None for respondent
No.1)

ORDER (ORAL)

Hon'ble Shri V.K.Majotra, Vice-Chairman (A) :

Applicant has challenged penalty of reduction in basic pay to the
initial pay level in her pay scale of TGT. It has also been directed that she would
not be entitled to payment of any salary for the period she remained on

compulsory retirement, i.e., 27.1.2003 until the date of joining. However, this period was directed to be added to her service for benefits other than salary. The disciplinary authority had awarded her the penalty of compulsory retirement in disciplinary proceedings against her, which was modified as above by the appellate authority (Annexure A-1 dated 9.12.2003). Disciplinary proceedings were initiated against the applicant under Rule 14 of the CCS (CCA) Rules, 1965 on 30.7.2002 for the allegations of refusal to teach Hindi to Class X, and gross misbehaviour by way of shouting at the principal that too in front of the parents and staff amounting to grave insubordination to the head of the institution.

2. The learned counsel of the applicant contended as follows :

- (1) Applicant had been issued an advisory note dated 5.7.2002 (Annexure A-4) to the effect that she should take Hindi Classes for Class X Indian students and follow the code of conduct. The learned counsel stated that this note was received by the applicant on 8.7.2002. She responded to the note on 8.7.2002 itself (Annexure A-4 colly.), but without any decision thereon, respondents proceeded to issue a chargesheet to her on 30.7.2002 (Annexure A-4 colly.).
- (2) Applicant was not allotted Class X Hindi under the Kit system.
- (3) The appellate authority has not applied its mind to the contentions set out in the appeal by the applicant.
- (4) Enquiry officer was biased.
- (5) The punishment awarded is disproportionate to the gravity of the charge.

3. The learned counsel of the respondents on the other hand stated that respondents have followed the procedure in conducting the disciplinary



proceedings against the applicant correctly as also adopting a lenient attitude while reducing the penalty of compulsory retirement to a lower penalty of reduction in pay. The applicant had been provided full and fair opportunity to state her case in defence.

4. We have considered the rival contentions of the parties and perused the material on record.

5. We find from the applicant's response to the advisory note that applicant had stated therein that the authorities should give assurance to her in writing that she would not be responsible for the results, if she had to teach Class X Hindi. Obviously, the applicant had not followed the advisory of the principal and had declined to teach Class Indian students, as per the advisory note. True that as per the Kit system a teacher has to teach the students of the lower class when they are promoted in the next year to the higher class. Under this system, as per the advisory note, applicant had been allotted Class XII Hindi but she had refused to take the class saying that she is not PGT. However, she agreed to take Class X Hindi. As such she was allocated Class Hindi, which she declined to teach, and was issued the advisory note.

6. The appellate authority has dealt with the contentions raised in appeal by the applicant in the appellate orders.

7. As regards the allegation of bias against the enquiry officer, the applicant has stated that the same enquiry officer had been appointed as the enquiry officer in her case who had functioned as enquiry officer in all disciplinary cases. This is no sufficient ground to raise the plea of bias. If in an institution, someone has been appointed an enquiry officer in ten cases, it does not mean that he will bear any bias against the delinquents. In any case, it is not applicant's case that the request for change of the enquiry officer had been made

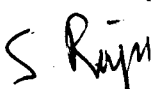
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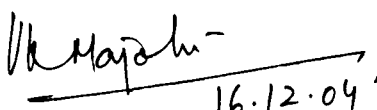
on the ground of bias of the enquiry officer to the disciplinary authority.

Therefore, this plea of the applicant is also rejected.

8. However, we observe that the applicant had been awarded a disproportionate punishment without taking into consideration the gravity of the charge against the applicant. True that the earlier punishment awarded by the disciplinary authority was reduced by the appellate authority, but in our view the charge against the applicant has not been as serious as to deserve punishment ultimately inflicted upon her. In this backdrop, we remand the case to the appellate authority to re-consider the case of the applicant afresh by according her an opportunity of hearing and award a lower punishment than the one presently inflicted upon her. The appellate authority shall pass the orders as above within a period of two months from the date of communication of these orders.

9. The OA is partly allowed as above.


(Shanker Raju)
Member (J)


(V. K. Majotra)
Vice-Chairman (A)
16.12.04

/as/