



**Central Administrative Tribunal
Jammu Bench, Jammu**

T.A. No.1796/2020
SWP No. 1476/2007

Order Reserved on: 19.07.2021
Order Pronounced on: 26.07.2021

(Through Video Conferencing)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)

Ashok Kumar Bhat,
S/o Som Nath Bhat,
R/o Muthi Goan (Dumana)
Laxmi Nagar, Jammu,
C/o Office Supdt., Army School Srinagar,
Aged 38 years

- Applicant

(By Advocate: Mr. M.M. Amin)

Versus

1. Union of India through
Chairman, School Management Committee,
Army School B.B. Cantt. Srinagar,
2. Principal Army School,
B.B. Cantt. Srinagar
3. Chairman,
Disciplinary Committee, Army School,
B.B. Cantt, Srinagar

- Respondents

(By Advocates: Mr. Sudesh Magotra and Mr. Raghu Mehta)



ORDER

Justice L. Narasimha Reddy:

The applicant was selected and appointed as Accountant in 31 Sub Area HQ Sub, 56 APO vide order dated 21.09.1994. Thereafter, he was promoted to the post of Office Superintendent on 05.09.2000. He was working in the Army School B.B. Cant, Srinagar.

2. On 23.09.2006, the applicant was served with a show cause notice, alleging that he indulged in the acts of eve teasing and in corrupt activities. It was also alleged that he is indulged in spreading rumors against the higher authorities and tantalizing young girls on the pretext of providing employment in the Army School, Srinagar. Another allegation was that he has changed the Minutes of School Management at his own way. The applicant submitted his explanation on 24.10.2006. Not satisfied with that, the Management appointed a Committee of officers to inquire into the allegations. The Committee submitted its report, holding that the allegations against the applicant are proved. Taking the same into account, the Disciplinary Authority (DA) issued a show cause notice dated 21.12.2006, requiring the applicant to explain as to why suitable penalty be not imposed against him. The applicant submitted his reply on 27.01.2007. The DA passed an order dated 20.03.2007, dismissing the applicant from service. The applicant filed SWP No.



1476/2007 before the Hon'ble High Court of Jammu and Kashmir, challenging the order of dismissal.

3. The applicant pleaded that the DA did not follow the prescribed procedure, and that he was not given an opportunity to defend himself. It is also stated that the nature of allegations changed from stage to stage and thus, the whole process cannot be sustained in law.

4. The respondents filed a detailed counter affidavit, it is stated that the applicant indulged in the acts of eve teasing, exploiting the girls in the name of offering appointment and that he has also indulged in financial irregularities. It was also stated that the applicant was provided with opportunity to defend himself at every stage, and the order of dismissal was passed, strictly in accordance with law.

5. The SWP has since been transferred to the Tribunal in view of re-organization of State of Jammu & Kashmir and renumbered as TA No.1796/2020.

6. Today, we heard the arguments of Mr. M.M. Amin learned counsel for the applicant and Mr. Sudesh Mangotra & Mr. Raghu Mehta, learned counsel for the respondents, in detail.

7. The applicant was working as Office Superintendent in the Army Schol B.B. Cant., Srinagar. He was served with a charge memo



dated 23.09.2006. The allegations against the applicant in the charge memo read as under:-

(a) that they are being persecuted by you on one pretext or other in order to exploit them sexually which have put negative impact on their mental & physical health,

(b) that you are misusing all the resources and position in the school for the personal benefits.

(c) that you are demanding money from every one like parents of Civil Students, Contractors, Suppliers and Staff members.

(d) that you are using gp. 'D' employees of the school for your personal Jobs on daily basis like servicing of your Maruti Car, maintaining of your Residential quarters situated at shees Mahal BB Cantt and private business office at Shiv Pora crossing opposite FOD Gate.

(e) that your firm is by name Diya Enterprises.

(f) that School Telephones were being misused for running your private business during the day and after 6 PM you return back to the school and get the office opened for making STD calls to your relatives for longtime.

(g) that you are misappropriating the school funds.

(h) that you are spreading the rumours against the higher authorities of Army School that they are corrupt people.

(j) that you tantalising young girls on the pretext of providing employment in the Army School, Srinagar.

(k) that you boast in front of staff members that you can get any one terminated, thereby keeping them under threat so that they cannot open their mouth to higher authorities against wrong and corrupt practices being done by you.

(l) that you are changing the minutes of SMC and other important decision of School according to your own will which causes unrest in the teaching and Adm. Staff.



(m) that you are just a matriculate and you have been elevated from Lab Asst. to OS – cum- Accountant post and therefore, keeping your qualification and competence in view it is alleged that you are neither capable nor qualified for maintaining the accounts and key post of office superintendent.”

8. The applicant submitted a detailed reply against each of the allegations. The Chairman of the School Managing Committee appointed a Group of Officers to inquire into the allegations, after considering the representation of the applicant. The Committee met between 30.11.2006 and 12.12.2006. Quite large number of witnesses were examined, and the applicant was given an opportunity to cross-examine the witnesses. The Committee submitted its report, holding the allegations against the applicant as proved. A show cause notice dated 21.12.2006 was issued, requiring the applicant to explain as to why suitable punishment be not imposed upon him. The applicant submitted a detailed representation on 27.01.2007. The DA passed an order dated 20.03.2007, which reads as under:-

“DISCIPLINARY ACTION

1. Your reply dated 27 Jan 2007 to show cause notice served to you vide Army School, Srinagar (J&K) letter No.015/06/AS dated 21 Dec 2006 was put up to the disciplinary committee of the School. The disciplinary committee considered your reply, however, it is not satisfied with your reply to the specific blames leveled against you vide Para 3(a),(b),(c) and (d) of the said Show Cause Notice for the following reasons:-

- (a) In your reply to the blames apportioned against you vide Para 3 of the Show Cause Notice (SCN), you have contended that witness no.23 Mrs. Kamlesh Kaur, witness no.24 Mrs. Anita Sanghwan, witness no.22 Mohd. Shaki Mir and witness no.13 Rikhi Singh have not put any blame against you nor had



they supported the complaint made against you by other employees of the School. It has been noted by the disciplinary committee that although the aforementioned witnesses did show their ignorance about the allegations which are the subject matter of Para 3(a), but there are numerous other witnesses examined by the Inquiry like Miss Farhat Qadri witness no.4, Mr. Vinod Ji Bhat witness no.7, who have supported the allegations you and the disciplinary committee is satisfied that the your general conduct has been found wanting and you have been in the habit of passing lewd remarks against women employees of the School and you often behaved in a brash and indignified manner with the staff.

- (b) In your reply to the Show Cause Notice, you have not given any answer to the blames leveled against you vide Para 3(b) of the SCN. You have not been able to show that office records were maintained properly and that you had carried out proper documentation with regard to release of security deposits and payment of bills against purchases of the School. You have rather tried to show that you have committed any fraud and that you did not misuse the School property which was not the charge leveled against you.
- (c) Your reply with regard to misappropriation of an amount of Rs.21,164/- which was to be paid to Mrs. Bharti Rout as refund of her provident fund is not satisfactory and it is no justification that you kept the amount in your personal possession which was to be paid to an Ex employee of the School on a specious ground of not knowing the address. The postal address of the lady was very much in the School records and the disciplinary committee finds you blameworthy for the same.
- (d) Similarly your reply to the blame leveled vide Para 3(d) of the SCN is also not satisfactory. In fact you have admitted having failed to do so. Your reply that you did not commit any fraud or wrongful gain by this lapse cannot justify your failure to keep the accounts clear and records clean as superintendent of the Army School.



2. The disciplinary committee has considered your reply in most dispassionate manner and has come to a conclusion that your general conduct has not been what is expected of the Office Superintendent of the Army School and you have been in the habit of passing lewd remarks against the women employees of the School, that you have failed to maintain the office records of the School property, that you had misappropriated Rs.21,164/- by keeping it with you instead of disbursing of Mrs. Bharti Routh and that you had failed to either remit the signed cheques (total 62 nos.) amounting to Rs.1,93,179.50 or to have the cheques cancelled in case the same were not required to be issued to the employees.

(3) Considering the seriousness of the lapses on your part and your previous record the disciplinary committee decides to terminate your services with immediate effect.”

9. From perusal of the facts mentioned above, it is evident that the procedure, which is followed in the departmental inquiry in any organization, was strictly followed. Initially, a charge memo was issued, and on consideration of the reply submitted by the applicant, inquiry was ordered. The applicant was given adequate opportunity to cross-examine the witnesses. Though at one stage, an argument was advanced to the effect that he was not permitted to cross examine the witnesses, the same turned to be incorrect in view of the contents of the reply, submitted by the applicant. In his reply to the second show cause notice, the applicant stated, *inter alia*, as under:-

“Witnesses, who have deposed against me, have deliberately done so as they were under the impression that I was creating hurdles in the release of D.A. in their favour. Reference may be made to the statement of witness no.1 Mr. Manzoor Ahmed Saroo who has stated in reply to question no.1 asked in cross-examination, that he does not have any recordable evidence to produce in verification of the fact that the undersigned has been misusing stationary items.”



10. Normally, the inquiry is conducted by one officer and in the instant case, it was by group of officers. Findings were recorded based upon evidence. Once the basic requirements of the disciplinary inquiry are complied with, the applicant cannot allege that there was any infraction. Obviously because the post is in Army School, and not in the regular Army establishment, reference is not made to any specific provision. All the same, the procedure prescribed under the law was complied with meticulously.

11. An effort is made to show that the findings recorded in the inquiry are not correct. The Tribunal cannot act as an Appellate Authority. This is not a case in which the findings were based on assumptions and premises. Quite large number of witnesses were examined. The applicant is not able to point out any serious defect in the process. The allegations of eve teasing and financial irregularities were held proved against the applicant. The applicant did not allege any malafide against the members of the inquiry team. The allegations proved against the applicant are serious in nature, and the punishment cannot be said to be disproportionate.

12. We do not find any merit in the TA. It is accordingly, dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

/lg/

(Justice L. Narasimha Reddy)
Chairman