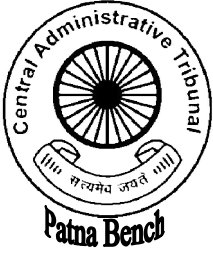


**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
O.A. No. 050/050/00188/2021**

Order dated: 15.03.2021.

C O R A M

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



Himanshu Shekhar Thakur, S/o Late J.N. Thakur, Ex-Principal Jawahar Navodaya Vidyalaya, Purnea AT/PO- Garhbanaili, District- Purnea, R/O at/PO- Ahiyari, PS- Kamtaul, District- Darbhanga (Bihar).846001.

..... Applicant.

By Advocate :- Shri M.P. Dixit.

-Versus-

1. The Navodaya Vidyalaya Samiti through the Commissioner, Navodaya Vidyalaya Samiti, B/15, Institutional Area, Sector-62, Noida-201307 (U.P.)
2. The Hon'ble Minister-cum-Appellate Authority (Chairman, NVS), Ministry of Human Recourse Development, Government of India, New Delhi-110001.
3. The Deputy Commissioner, Navodaya Vidyalaya Samiti, Patna Region, Karpoori Thakur Sadan, Kendriya Karyalaya Parisar, Ashiyana Digha Road, P.O.-Ashiyana Nagar, P.S.- Rajeev Nagar, Town & District- Patna, PIN Code-8000025 (Bihar).

..... Respondents.

By Advocate :- Shri K.P. Narayan.

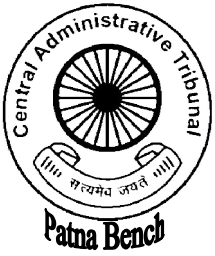
**ORDER (O R A L)
M.C. Verma, M [J]**

1. Being aggrieved by Order dated 11.06.2020 passed by of Disciplinary Authority whereby penalty of reduction of pay by one stage in the time scale in Level 12 in the pay matrix till retirement with further direction that applicant would draw retiral benefits in the reduced pay has been inflicted and being aggrieved further by Order

dated 08.10.2020 of the Appellate Authority wherein his Appeal has been rejected, instant OA has been preferred by the applicant. The OA is at notice stage hearing and having received advance copy of the OA Shri K.P. Narayan Advocate has appeared for the respondents.



2. Heard.Learned counsel Shri M.P. Dixit Advocate appearing for applicant and pressing the OA submits that applicant was appointed as Post Graduate Teacher in May 1989, was given promotion to the post of Principal in 2002 and after having been put under suspension on 24.01.2019 was served with charge sheet, dated 24.01.19 alleging misconduct, stating that as assessed in the report about functioning of the Jawahar Navodaya Vidyalaya he,during the period from 18.06.2014 to 26.10.2018 failed in performing his duties & responsibilities up to the expectation of the Navodaya Vidyalaya Samiti and not only he failed to maintain devotion to duty but also failed to ensure integrity & devotion to duty from his subordinate functionaries employed under his control & authority and thereby contravened Rule 3(1)(II) & 3(2)(I) of CCS (Conduct) Rules, 1964.



3. Learned counsel referring the charge-sheet added that departmental inquiry was held and the Inquiry Officer held the charge leveled against the applicant partially proved, applicant submitted his representation to Disciplinary Authority but Disciplinary Authority, without taking proper note of material did pass a cryptic Order inflicting punishment as stated above. That applicant preferred Appeal but Appellate Authority dismissed the Appeal vide Order dated 08.10.2020 without discussing anything or without assigning any reasons and by merely referring the penalty imposed by Disciplinary Authority and recording thereafter that the Appellate Authority accepted the penalty as mentioned above, imposed by the Disciplinary Authority.

4. Learned counsel for respondents disputed the maintainability of the OA stating that no Revision has been preferred.

5. Considered the submissions. Before advertizing to the submissions made at Bar, we think it appropriate to reproduce the Order passed by the Disciplinary Authority and by the Appellate Authority in verbatim. Order dated 25.06.2020 of Disciplinary Authority reads as under:



“WHEREAS, Shri H.S. Thakur, Principal, Jawahar Navodaya Vidyalaya, Distt. Purnea (Bihar) was served Charge sheet vide Memorandum No. PER-14011(11)/36/2018-Estt-III/7172-7174 dated 24.01.2019 under Rule 14 of CCS (CCA) Rules, 1965. The statement of imputation of misconduct or misbehavior on which the charge was proposed to be taken was also annexed with the above said Memorandum.

AND WHEREAS, Shri H.S. Thakur, Principal was given an opportunity to make written defense as he may wish to make against the charge sheet dated 24.01.2019. The misconduct in the part of Shri H.S. Thakur was related to failure to exhibit integrity and devotion towards his duties due to purchase of M&R works items at higher rate and failure in running the vidyalalya smoothly resulting in sneaking out of two students from the JNV campus.

AND WHEREAS, Shri H.S. Thakur, Principal in his written defence dated 16.03.2019 denied the Articles of Charges leveled against him. The representation of Shri H.S. Thakur, Principal in reference to the Inquiry Report has been considered carefully and it has been found that he could not counter the charges effectively in his reply.

NOW THEREFORE, after taking into account the facts and record of the case into account the undersigned impose penalty of reduction of pay by One (01) stage in the time scale of Pay in Level 12 in the pay matrix on the said Shri H.S. Thakur, Principal, JNV Purnea (Bihar) till his retirement i.e. (30.06.2020). Shri H.S. Thakur will draw his retirement benefits in the reduced pay.”

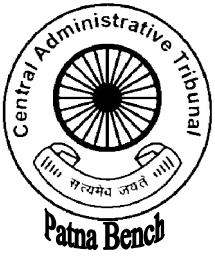
6. Order dated 08.10.2020 communicated to applicant by the Appellate Authority reads as under:-

WHEREAS, Shri H.S. Thakur, Principal (Retired) has submitted an appeal to the Appellate Authority i.e. Hon'ble Minister of Education against NVS Hqrs. Penalty Order No. PER-14011(11)/36/2018-Estt.III/13719-721 dated 11.06.2020 imposing penalty of reduction of pay by one stage in the time scale of pay in Level 12 in pay matrix till his retirement i.e. 30.06.2020. Shri H.S. Thakur will draw his retirement benefits in the reduced pay.

AND WHEREAS, the Appellate authority viz. the Hon'ble Minister of Education & Chairman, NVS accepted the penalty as mentioned above, imposed upon shri H.S. Thakur, Principal (Retired) by the Disciplinary Authority.

WITH THIS, the appeal dated 27.06.2020 of Shri H.S. Thakur, Principal (Retired) stands disposed of.”

7. In Charge Memorandum three charges were leveled against the applicant, Inquiry Officer upheld charge no. 1 & 2 partially proved and charge no.3 as not



proved. Inquiry report runs into 70 sheets and defense note is also in 8 sheets but interestingly the Order of Disciplinary Authority is in less than one full page, confining in 4 paragraphs. First paragraph relates to Rule where under applicant was prosecuted, second & third paragraph speaks that applicant was given opportunity and that applicant submitted the defense. Third paragraph also contains observation that it has been found that applicant could not counter the charges effectively in his reply but this observation is without any discussion as to how the Disciplinary Authority arrived on this conclusion. Fourth paragraph is of imposing of penalty. Order of Disciplinary Authority does not have an iota of discussion of defense points nor any whisper is there in it about the reasons as to how the Disciplinary Authority arrived at the conclusion.

8. Surprisingly in Order of the Appellate Authority also no note of aforesaid aspects were taken. Appellate Authority merely has noted in its order that it accepted the penalty imposed by the Disciplinary Authority and that the appeal is rejected.

9. The order of Disciplinary Authority and of Appellate Authority both are neither comprehensive nor

the conclusion arrived at by either of these Authority is supported by any discussion or reason. None of the Order can be said to be speaking order.



10. It is true, as submitted by Learned counsel for respondents that no Revision has been preferred against order of Appellate Authority, but in peculiar facts and circumstances of the matter , it would be appropriate to take cognizance and hence at this stage of notice hearing itself, both orders, viz. Order dated 11.06.2020 of Disciplinary Authority and Order dated 08.10.2020 of Appellate Authority are quashed. The matter is remitted back to the Disciplinary Authority to pass an appropriate, reasoned and speaking order.

11. With said observation and direction, OA stands disposed of.

Sd/-
[Sunil Kumar Sinha]
Member [A]

BP/-

Sd/-
[M.C. Verma]
Member [J]