

Reserved on – 13.11.2014

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD
(Circuit Bench at Nainital)**

(ALLAHABAD THIS THE 10TH Feb 2015)

PRESENT:

HON'BLE MS. JASMINE AHMED, MEMBER-J

HON'BLE MR.U.K.BANSAL, MEMBER –A

ORIGINAL APPLICATION NO.932 OF 2000
(U/s. 19 Administrative Tribunal Act, 1985)

V.K.Jindal, son of Late Lekh Raj Jindal, resident of 166/0-5,
Type-2, Opto Electronics Factory Estate Raipur, Dehradun.

.....Applicant

By Advocate: Shri K.C. Sinha/Shri Sunil

-Versus-

1. Union of India through Additional Director General,
Ordnance Factory Board, Armoured Vehicles, Headquarters,
Avadi, Chennai-600 054.
2. General Manager, Opto Electronics Factory, Raipur,
Dehradun-248008.

.....Respondents

By Advocate: Shri M.K. Sharma

ORDER


BY HON'BLE MR.U.K.BANSAL, MEMBER–A:

The Petitioner in this case is an employee of the Opto Electronics Factory, Raipur, Dehradun. On the basis of a complaint made by the Principal of the Kendriya Vidyalaya, OEF, Dehradun,

charge sheet dated 29.12.1997 under Rule 14 of the CCS (CCA) Rules, 1965 was issued to the petitioner. Following departmental enquiry, the Disciplinary Authority passed an order dated 29.10.1999 whereby the petitioner was awarded the punishment of reduction of pay by two stages in the time scale of pay for a period of three years with cumulative effect. The petitioner filed an appeal against this order which was rejected by the Respondent No.1 by an order dated 06.05.2000.

2. Petitioner has filed this Original Application seeking quashing of the punishment order issued by the Disciplinary Authority on 29.10.1999 and the order of the Appellate Authority dated 06.05.2000 rejecting his appeal along with consequential benefits.

3. The brief background of the case is that Shri A. S. Bhandari, the then Principal, Kendriya Vidyalaya, OEF, Dehradun preferred a complaint to the General Manager, OEF dated 17.12.1997 alleging that Shri V.K.Jindal (Petitioner in this case) entered his room on 16.12.1997 at about 16.10 hrs and threatened him with a sharp edged weapon by keeping the same on his neck. He used slang language against the Principal and resisted any attempt by others, who were present there, to stop him. It is alleged that the



petitioner forced the Principal to write a statement that he had beaten the son of the petitioner earlier while in School.

4. A charge sheet dated 29.12.1997 was issued to the Petitioner in respect of this incident with three articles of charge. Briefly, these charges were as under:

“Charge No.1.

That the petitioner committed gross misconduct and failed to maintain discipline inside the Central School of the OEF inasmuch as on 16.12.1997 at about 4.10 pm he entered the office of the Principal with ulterior motive;

Charge No.2

That the petitioner committed gross misconduct and conduct unbecoming of a Government servant inasmuch as he behaved insolently with the Principal and his staff and used slang language thereby creating a frightening situation inside the school;

Charge No.3

That the petitioner committed gross misconduct and failed to maintain absolute discipline inside the Central School of OEF inasmuch as that the petitioner after entering the room of the Principal on 16.12.1997 brought out a sharp edged weapon thereby creating an atmosphere of fear and horror in the school.”

5. In the petitioner's submission, it has been stated that he had earlier made a complaint against the Principal along with some other parents against the highhanded behaviour of the Principal alleging that the Principal was using physical punishment against the students of the School for acts of perceived misdemeanor. It has also been stated that the son of the petitioner was also beaten



up by the Principal and he received some injuries in his hand. When the petitioner tried to meet the Principal in this regard, he was threatened that his ward will be rusticated from school. In this connection, the petitioner claims to have lodged a report with the Station House Officer of Raipur Police Station, Dehradun on 16.12.1997 itself. The Principal was peeved with these complaints and hence, he made a false complaint against the petitioner on 17.12.1997 which became the cause of enquiry against him.

The petitioner has submitted this application primarily claiming that the complaint made by the Principal dated 17.12.1997 was false and that the witnesses in the complaint were deposing against him under the influence of the Principal. No FIR was lodged by the Principal with the local Police Station. During course of the enquiry, the petitioner was not provided with the documents referred in Annexure-3 of the charge sheet. It has also been submitted that the Principal who was the complainant against the petitioner was not produced for cross-examination. It has been averred that the findings of the Inquiry Officer do not prove the guilt of the petitioner and there is no reliable evidence against him. The Disciplinary Authority has not applied his mind over the findings of the Inquiry Officer while imposing the punishment and



issuing the impugned order dated 29.10.1999. It has also been contended that the order of the Appellate Authority suffers from non application of mind.

6. In their counter-affidavit, the Respondents have narrated the incident of 16.12.1997 involving the petitioner. It has been stated that after issuance of charge Memo dated 29.12.1997, the petitioner was provided adequate opportunity at every stage of the departmental proceedings as mandated under CCS (CCA) Rules, 1965 to defend himself. The Inquiry Officer recorded the statement of all relevant witnesses and the petitioner had full opportunity to cross examine the witnesses, as required under Rules. A copy of the findings of the Inquiry Officer was provided to the petitioner giving him an opportunity to make his submission against the findings. The Disciplinary Authority, after taking into consideration the statement of defence, issued the impugned order awarding punishment to the Petitioner. In doing so, he examined the issues raised by the petitioner against the findings of the Inquiry Officer in the light of the other documents available on record and he found no reason to disagree with the findings of the Inquiry Officer or any extenuating circumstances that would



mitigate the charges. Thereafter, the Disciplinary Authority has passed a detailed order (impugned) dated 29.10.1999.

The Respondents have also submitted that the appeal preferred by the petitioner dated 12.12.1999 was carefully examined by the Appellate Authority and the issues raised by the petitioner were also examined on the basis of the relevant records of the case. Thereafter, the appeal was rejected by a detailed speaking order dated 06.05.2000. It has been pointed out by the Respondents that the enquiry and disciplinary action were conducted and concluded keeping all the provisions of the CCS (CCA) Rules, 1965 in consideration and by observing principles of natural justice.

In addition, the Respondents have clarified that the departmental enquiry and disciplinary action were limited to the Article(s) of charge and were not based on the information purported to have been given by the Principal, KV to the Station House Officer of Raipur Police Station, Dehradun. For this reason, the petitioner was appropriately informed that the documents like copy of the FIR said to have been lodged by the Principal etc were not relevant. It has also been clarified that some of the documents desired by the petitioner during the course of the enquiry had no



relevance to the departmental proceedings and hence could not be given to him. Respondents have also clarified that during the course of the enquiry Shri A.S.Bhandari, the then Principal of KV, OEF and complainant against the petitioner proceeded on medical leave due to his illness and subsequently passed away on 04.02.1999. Hence, it was not possible for the Inquiry Officer to record his statement or to submit him for cross examination.

7. A supplementary counter-affidavit was also filed by the Respondents on the lines of their earlier counter affidavit.

8. A supplementary rejoinder affidavit was also filed by the petitioner where it has been stated that the Respondents have no administrative control over the KV and hence the Principal had no *loco standi* to file a complaint against the petitioner before his employer. It has been submitted that the Inquiry Officer had enough time to record the statement of the Principal before his death which was not done.

9. During course of hearing both the parties argued largely on the lines of their pleadings. Counsels for the Applicant and Respondents also provided their written submissions to enable us to arrive at a just decision in the matter.



10. Counsel for the petitioner has placed reliance on some judicial pronouncements which are mentioned below:

- (i) (2001) 1 SCC 182 – **Kumaon Mandal Vikas Vs Girja Shankar Pant**;
- (ii) AIR 1953 SC 395, **Bachttar Singh Vs State of Punjab** -[Enquiry Officer is required to give reasons for its findings]
- (iii) (2009) 9 SCC 24 – **Southern Rly Vs Union of India** - [Reasons to be recorded satisfaction should show the reasons]
- (iv) (2008) 5 SCC 209- **Nahar Singh Vs. FCI**
[If direct evidence is not there circumstantial evidence has to be seen]
- (v) (2009) 12 SCC 78 – **Union of India Vs Gyan Chand**
[Charges have to be proved to the hilt]
- (vi) (2005) 3 SCC 341 – **Chollan Railways Vs V.G.Tringua**-
[If a letter is produced to establish the charge the writer must be produced]
- (vii) (2009) 2 SCC 570-**Roop Singh Negi Vs PNB** (para-14 & 23)
[Contents of documents have to be proved by examining the witnesses & Order of DA must contain reasons]
- (Viii) 1999(3) ESC 1986 – **Smt. Kailashi Saxena Vs UP Secondary Education** (para-5)
[Conclusion must be supported by the reasons]
- (ix) (2006) 4 SCC 713 -
[Application of mind be apparent from the order]

(x) JT 2006 (7) SC 31 –**Director IOL Vs Santosh Kumar-**

[Order should be passed with application of mind]

(xi) (2008)8 SCC 236 – **State of Uttaranchal Vs Kharak Singh** (para-20)-

[Points raised in appeal should be dealt with]

(xii) (2009) 4 SCC 240 –**Chairman Disciplinary Authority Rani Laxmi Bai Kshetriya Gramin Bank Vs Jagdish Sharan Varshney and others -**

[Appellate Authority is required to give reasons while affirming the orders of the lower authority].

11. Upon an examination of the pleadings, as detailed above and after hearing the arguments of both sides, we find that the moot question herein is regarding the veracity of the incident of 16.12.1997 as reported by the Principal, KV, SEF, Dehradun and whether due process as mandated in CCS (CCA) Rules, 1965 was followed during the conduct of the Disciplinary Proceedings. As regards the complaint relating to the incident in the office of the then Principal, Shri A.S.Bhandari, we find that even though Shri Bhandari could not be examined during the course of the enquiry several eye witnesses have given their depositions to attest to the accuracy of the complaint. They have also been cross examined by the petitioner but the contents of the complaint remain verified and believable. It is necessary to point out that the standard of proof in departmental proceedings is not the same as in criminal



proceedings and the doctrine of 'proof beyond doubt' has no application as held in a catena of decisions that the standard of proof is of only preponderance of probabilities, in most cases. It is necessary to ensure that the procedure has been consistent with principles of natural justice.

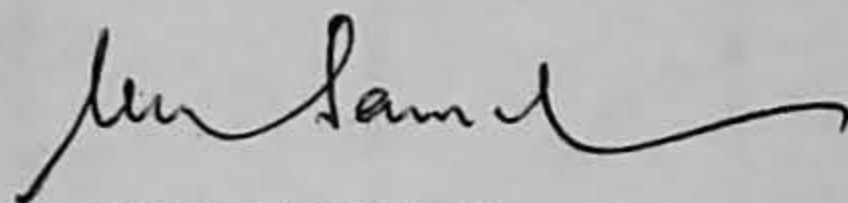
12. The applicant's contention that KVS is not under the administrative control of OEF management is untenable as any Government servant is supposed to maintain good conduct and discipline at all times and it is the duty of the supervisory officer to enquire into any complaints in this regard especially when they are of a serious nature, bordering on crime, as in this case.

13. The judicial pronouncements cited by the applicant in support of his case were also seen closely. They are very relevant to this case as they clearly enunciate the issues and areas which must be covered and kept in mind during the conduct of Disciplinary Proceedings. These principles are the backbone of such proceedings and emphasize on the preponderance of Rules and principles of natural justice. The present case was examined carefully in the background of these judgments and it is clear that within the bounds of feasibility the Disciplinary Authorities have been careful to comply with the same.

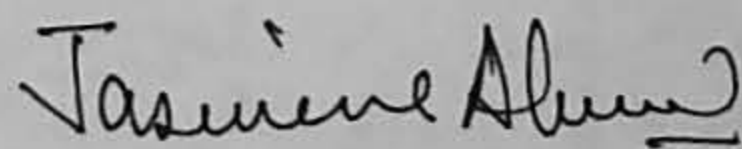


14. The enquiry report was examined along with its enclosures. The Inquiry Officer has discussed the evidence on record in sufficient detail before arriving at his conclusion of guilt of the petitioner in regard to the Articles of charge. The petitioner was afforded adequate opportunity at all stages to defend himself and the submissions made by him before the Disciplinary Authority were also examined in sufficient detail. The impugned order of punishment dated 29.10.1999 therefore, does not suffer from any infirmity, as regards the provision of CCS (CCA) Rules, 1965. The appellate order dated 06.05.2000 was also examined closely. The Appellate Authority has considered all the points raised by the petitioner in his appeal and after examining the relevant records he has reached a reasoned conclusion thereby rejecting the appeal of the petitioner.

15. On the above grounds, we uphold the impugned orders and accordingly this OA is dismissed with no order as to costs.



(U.K.BANSAL)
Member-A



(MS.JASMINE AHMED)
Member-J