

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

Open Court

Original Application No. 492 of 2002

Allahabad this the 03rd day of **March**, 2005

Hon'ble Mr. A.K. Bhatnagar, Member (J)
Hon'ble Mr. D.R. Tiwari, Member (A)

Prem Narayan Dwevedi, Son of Late Sri Bansidhar Dwevedi,
Resident of M-80, Block 'C', Kanpur Nagar.

Applicant

By Advocate Shri V.K. Khare

Versus

1. Union of India through Commissioner, Kendriya Vidyalaya Sangathan, Saheed Jeet Singh Marg, New Delhi.
2. Assistant Commissioner Kendriya Vidyalaya Sangathan, Lucknow Region, Sector-J, Aliganj, Lucknow.
3. Joint Commissioner (Administrative), Kendriya Vidyalaya Sangathan, Saheed Jeet Singh Marg, New Delhi.
4. Mr.S.B. Lal, Ex. Principal, son of Sri Gopeshwari, Resident of 3/300 Vikas Khand, Gomti Nagar, Lucknow.

Respondents

By Advocate Shri N.P. Singh

O R D E R (Oral)

By **Hon'ble Mr.D.R. Tiwari**, Member (A)

By this O.A. filed under Section 19 of the Administrative Tribunals Act, 1985 the applicant impugns order dated 03.11.2000 by which penalty of compulsory retirement from service has been imposed upon him and he also impugns the appellate order dated January 2002/04.02.2002 by which the said penalty has been confirmed(annexure no.22 and 25). He has further prayed for his reinstatement in service with all consequential benefits along with arrears of salary and other dues.

D.R. Tiwari

2. Briefly stated, the applicant has been working since 26.02.1979 as Primary Teacher in Kendriya Vidyalaya No.1 Armapur Estate, Kanpur Nagar in substantive capacity. He was suspended by respondent no.2 vide order dated 02.05.1998 (annexure no.1). His allegation is that he was suspended because of bias attitude of the competent authority without any preliminary inquiry. He filed a writ petition no.14141 of 1998 before the Hon'ble High Court and the High Court directed the respondents to complete the inquiry within three months (annexure no.6).

3. The disciplinary proceeding was initiated against the applicant and a charge memo dated 24.03.1998 (annexure no.7) was issued to him under Rule 14 of C.C.S.(C.C.A.)Rules, 1965. On receipt of the charge sheet, the applicant wrote to respondent no.2 stating that the annexures of the charge sheet have not been supplied and requested that annexures and the statement of witnesses of preliminary inquiry and the copy of the preliminary inquiry report may be supplied to him (annexure no.8). The respondent no.2 wrote back to him that inspection of documents was not necessary in this case (annexure no.9). After this, he filed O.A. No.1647 of 1999 which was disposed of by order dated 11th July, 2000 to complete the inquiry within one month, failing which the suspension order would stand vacated automatically (annexure no.11).

4. The respondents in accordance with the charge sheet held the inquiry and the inquiry officer submitted the inquiry report and the same was furnished to the applicant vide letter dated 31.08.2000 (annexure no.17) and the applicant was given an opportunity to submit his reply within 15 days from the date of receipt of the report. The applicant submitted the representation on the inquiry report on 23.10.2000 (annexure no.21).

5. The disciplinary authority after taking into account the inquiry report, the representation of the applicant

Defendant

and the entire case file, imposed upon him the penalty of compulsory retirement by his order dated 03.11.2000 and on appeal, the appellate authority confirmed the order of the disciplinary authority by his order dated January 2002/04.02.2002.

6. Aggrieved by the above orders, the applicant has challenged the impugned orders on various grounds mentioned in paragraph no.5 of the O.A. The respondents on the other hand have resisted the O.A. by filing a detailed counter affidavit. They have argued that the preliminary inquiry was held before the preparation of the charge sheet and the inquiry was conducted in accordance with the rules. He was given proper opportunity of hearing and also for submission of representation against the inquiry report.

7. During the course of arguments, the counsel for the applicant reiterated the facts and the legal pleas from the pleadings of the applicant, whereas the counsel for the respondents argued very forcefully that there was no infirmity in the inquiry proceedings and all possible opportunities of hearing were provided to the applicant. He also produced before the Court the Code of Conduct of the Kendriya Vidyalayas to show that the Teachers working there should set an example to be adopted by the students instead in the present case he lacked in all these respects. He laid stress on annexure no.1 wherein the newspaper cutting of the daily Newspaper 'Pioneer' dated May 7, 1998 has been annexed to show that every possible effort was made to render justice to him and he never availed of this opportunity. He has submitted that amount of subsistence allowance was sent to him by cheque which he refused to accept. He completed his arguments with the statement that in the disciplinary proceedings, at every stage, the principle of natural justice was kept in view and was observed in letter and spirit, as such, the O.A. may be dismissed.

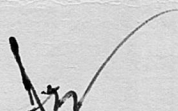
Dismissed

8. We have heard very carefully the rival submissions of the learned counsel for the parties and perused the pleadings.

9. The only question which falls for consideration is the validity of the impugned orders. We have given a careful consideration to the submissions made by the parties. We are also conscious that the scope of judicial review in respect of disciplinary proceeding cases is very limited. The Apex Court has consistently held that the Courts and Tribunals should not reappraise the evidence of the disciplinary proceedings and substitute it by its own decision. It is the settled preposition of law that the Courts or Tribunals are not concerned with the decision of the competent authority but are concerned only with the decision making process. In the fact situation of this case, we find that a proper preliminary inquiry was held and the applicant was served with a charge sheet where under rule 14 of C.C.S.(C.C.A.) Rules, 1965 a full fledged inquiry was held and after that it was found that of the four charges, charge no.1 was partly proved and charge no.4 was fully proved. The disciplinary authority after following the procedures imposed upon him the said penalty and passed a reasoned and speaking order, and on appeal, the appellate authority has confirmed the penalty. As such, we are of the considered view that the O.A. lacks merit and is bound to fail.

10. In the result, the O.A. is devoid of merit and is accordingly dismissed. There is no justification to interfere with the impugned orders passed by the respondents. No order as to costs.


Member (A)


Member (J)

/M.M. /