

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO. 1233 OF 2003

ALLAHABAD THIS THE 16th DAY OF APRIL 2009

HON'BLE MR. JUSTICE A. K. YOG, MEMBER-J
HON'BLE MRS. MANJULIKA GAUTAM MEMBER-A

Suresh Chand Sharma,
S/o Sri Sheo Charan Lal Sharma,
R/o Village & Post Ushani Tehsil &
District-Firozabad.

.....Applicant

By Advocate : Shri Nasiruzzaman

Versus

1. Union of India,
Ministry of Defence,
South Block, New Delhi.
2. Commissioner, Kendriya Vidyalaya Sangathan,
Headquarter 18, Industrial Area,
New Delhi.
3. Assistant Commissioner, Lucknow Region,
Sector-J Aliganj, District-Lucknow.
4. Principal, Kendriya Vidyalaya,
Ordinance Equipment Factory,
Hazratpur, Firozabad.

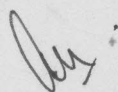
..... Respondents

By Advocate : Shri N.P. Singh
Shri D.P. Singh

ORDER

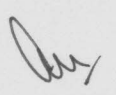
DELIVERED BY JUSTICE A. K. YOG, MEMBER-J

1. Heard Shri Nasiruzzaman, Advocate on behalf of the
applicant and learned counsel for the respondents. Perused the
pleadings as well as document/s on record.



2. Disciplinary proceedings were conducted against the applicant, working as Lab Attendant in the educational institution-'Kendriya Vidyalaya', Ordinance Equipment Factory, Hazratpur, Firozabad. The applicant was charged that he misbehaved with one Smt. Deepti Sharma, a Graduate-Teacher of the institution on 2.8.1996; Photostat copy of the complaint is Annexure-1 to the OA. In the complaint, apart from allegations of 'indecent-behaviour', it was stated that the applicant had resorted to physical violence by catching hand of the said teacher and tried treating to drag her down (in other words he was guilty of breaching modesty of the Lady-Teacher). Interesting to note that in the charge-memo, there is no mention of 'catching and dragging', or when alleged incident took place and/or presence of witness if any on spot. The applicant claims to have sent reply/explanation raising specific pleas with respect to the above points vide his explanation dated 5.8.1996/Annexure-2. According to the applicant he had left the place in question in presence of certain persons and therefore charge of alleged incident is fabricated one.

3. According to the respondents as per charge sheet another incident took place on 21.09.1996. Copy of charge sheet dated 19.10.1996 has been filed as Annexure-7; said charge sheet is again vague as it did not disclose 'specific time', specific act/words constituting misbehaviour/misconduct on the part of the Applicant. Charge sheet Annexure A-7 to the OA does not contain alleged charge of 'terror/apprehension' caused by the



applicant. The disciplinary authority passed impugned order dated 05.12.2001/Annexure-12; relevant extract it reads:-

" Whereas Sh. S.C. Sharma, Lab Attendant Kendriya Vidyalaya, O.E.F., Hazratpur presently posted as Kendriya Vidyalaya, A.M.C. Lucknow was charge sheeted by the Principal, Kendriya Vidyalaya, O.E.F., Hazratpur vide Memorandum No.KVH/1996/260 dated 19.10.1996 under Rule 14 of the CCS(CCA) Rules 1965 as extended to the employees of Kendriya Vidyalaya Sangathan.

Whereas the earlier departmental enquiry initiated by the Principal, Kendriya Vidyalaya, O.E.F., Hazratpur vide Memo No.KVH/1996/260 dt.19.10.1996 could not be got conducted due to nuisance created by said Sh. Sharma. The undersigned was directed on 20.02.2001 to inquire into the case with regard to the disciplinary proceedings against Sh. Sharma.

Whereas Sh. A.K. Varshney, retired Assistant Commissioner was appointed as inquiry Officer vide order No.21-6/97-KVS (GWL)/LR/Vig./13814 dated 28.02.2001 to enquire into the charges framed against said Sh. S.C. Sharma.

Whereas Sh. A.K. Varshney, Inquiry Office submitted his report dated 10.09.2001 to the Disciplinary Authority and a copy of the inquiry report was made available to said Sh. S.C. Sharma, the charged Officer, vide this office memorandum of even number dated 27.09.2001 for making representation in terms of the Government of India's instructions under Rule 15 of the CCS(CCA) Rules 1965.

And Whereas on a careful consideration of the records of the case, representation of said Sh. S.C. Sharma on the Inquiry Report which do not negate the facts on records, findings of the Inquiry Officer and also taking into account all other relevant facts, circumstances of the case, the undersigned is satisfied that Sh. S.C. Sharma abused and used unparliamentary language against the lady teachers, used derogatory remarks against Mahila Samaj, threatened them on 21.09.1996 at 12.30. p.m., left the Vidyalaya on 23.09.1996 at 8.30.a.m. without permission and refused to receive the official letter on 24.09.1996 and that good and sufficient reasons exist for imposing upon the said Sh. S.C. Sharma the penalty of Compulsory Retirement from the service of the Kendriya Vidyalaya Sangathan.

Now, therefore, the undersigned orders for imposition of major penalty of Compulsory Retirement from service upon Sh. S.C. Sharma with immediate effect.

It is further ordered that the period of suspension with effect from 23.09.1996 to 27.02.2001 in respect of Sh. S.C. Sharma will be treated as non-duty and the amount of payment for the said period will be restricted to subsistence allowance already paid to him."



4. Feeling aggrieved the applicant filed appeal which has been rejected vide impugned order dated 24.01.2003; for convenience relevant extract of the Appellate order is reproduced:-

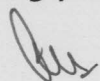
" Whereas the penalty of "Compulsory Retirement" from the service s of Kendriya Vidyalaya Sangathan was imposed upon Shri S.C. Sharma, Lab Attendant, Kendriya Vidyalaya, A.M.C., Lucknow by the Education Officer, Kendriya Vidyalaya Sangathan, Regional Office, Lucknow being the higher Disciplinary Authority vide order No.F.21-6/97-KVS(GWL)LR/Vig./7634-7638 dated 14th December, 2001.

Whereas the said Shri S.C. Sharma preferred an appeal against the aforesaid order of the Disciplinary Authority to the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Lucknow which has been considered by the undersigned being the Appellate Authority in this matter. He has also been given a personal hearing on 18.12.2002 vide Memorandum dated 04.12.2002.

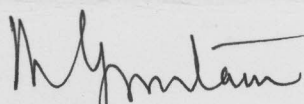
And Whereas based on the consideration of facts and circumstances of the case on records, contents in the appeal including the grounds adduced by the appellant during the personal hearing, the undersigned has come to the conclusion that Shri S.C. Sharma has engaged himself in meaningless and often delinquent activities in the Vidyalaya. He has abused and used unparliamentary languages against the lady teachers, used derogatory remarks against Mahila Samaj and threatened the lady teachers also. He left the Vidyalaya on 23.09.1996 at 8.30 A.M. without permission and refused to receive the official letter on 24.09.1995.

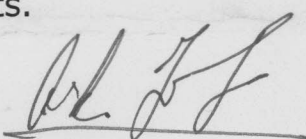
As for the charges standing against him six of the six charges have been held proved against him. During the course of hearing, the appellant has not produced any fact so as to negate the findings of the Inquiry Officer. Kendriya Vidyalaya Sangathan, being an educational Institution, expects normal decency in behaviour and conduct from the staff and more so from the Lab. Attendant who is taking the charge of Laboratory and the students are always in his concern and care. Retention of such a employee in the educational organization will not be conducive in the interest of the organization. Hence the penalty imposed upon the appellant by the Education Officer is commensurate with the misconduct of the appellant.

Now therefore the undersigned, being the Appellate Authority, confirms the penalty imposed by the Education Officer and disposes of the appeal of Shri S.C. Sharma accordingly".



5. Learned counsel for the applicant argued that the alleged enquiry in the instant case is nothing but a force and a mock show enquiry without giving relevant details and particulars of alleged charge material in its support. We have already dealt with this aspect and find that impugned orders have been passed mechanically with closed mind. It is seen that respondent authorities have recorded findings/conclusions without discussing defence/evidence on record. In view of the above, the impugned orders dated 14.12.2001/Annexure-12 and 24.01.2003/Annexure-14 to the OA, cannot be sustained in law and liable to be set aside. Accordingly, orders dated 14.12.2001/Annexure-12 and 24.01.2003/Annexure-14 are set aside, the applicant shall be reinstated and paid future Salary month by month-treating him in service throughout without break and consequential benefits within three months of receipt of certified copy of this order. The applicant for the period he has not worked but any amount paid, as subsistence allowances shall not be recovered from him. No Costs.


Member-A


Member-J

/ns/