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O.A.No. 415 of 2009

Jyotsnapriya Behera Applicant
Versus
Union of India & Others Respondents
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Order dated: the 06th April, 2010

C O R A M

THE HON'BLE MR. C.R. MOHAPATRA, MEMBER (A)

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Applicant is at present working as a ^{Post}~~Trained~~ Graduate Teacher

in Hindi of KV Banamaliprasad in the District of Dhenkanal. By filing this OA she assails the order under Annexure-15 dated 12.02.2007 ordering withholding of one increment for one year without cumulative effect and the order of the Appellate Authority under Annexure-17 dated 04.04.2008 upholding the said order of punishment under Annexure-15 being illegal, arbitrary and contrary to Rules and law and has prayed to quash both the orders. Respondents by filing counter opposed all the contentions made by the Applicant in support of the aforesaid prayer by stating that there has been absolutely no illegality, irregularity or infraction of rules/law in passing the order under Annexure-15 which was subsequently confirmed by the Appellate Authority under Annexure-17 and accordingly prayed for dismissal of this OA.

2. In this case, as noticed, vide memorandum under Annexure-A/6 dated 31.01.2007 a set of charges was issued under Rule 16 of the CCS (CC&A) Rules, 1965 calling upon to file her show cause within the specified time given therein. The charges framed against the Applicant read as under:

“ Article-I

That Ms.J.P.Behera while working as PGT (Hindi) in Kendriya Vidyalaya, Kalaikunda has denied to evaluate 18 Answer Books of Hindi Core of 2nd Pre Board Examination of Class XII (Humanities). She has also refused to obey the written order of the Principal issued vide letter

2

No.F.PF/JPB/KV-1/KKD/2006-07/1022 dated 29.01.2007
(Annex-11-A,B&C).

Article-II

That Ms.J.P.Beheras while working as PGT (Hindi) in Kendriya Vidyalaya No.1, Kalaikunda came to the Principal's chamber on 29.01.2007 and said that I am not a subordinate of any body and Principal is at par with me. I have not accepted the Answer Books for evaluation and question of insubordination does not arise. She has also given a false statement against the Principal that he has threatened her by saying that he will spoil her career (Annex.III).

Article-III

That Ms.J.P.Behera while working as PGT (Hindi) in Kendriya Vidyalaya No.1, Kalaikunda went to the Vice-Principal's chamber on 31.1.2007 at 09.15 AM and she misbehaved with Mrs.N.Dean, Vice-Principal. She has threatened Vice-Principal that she will be trapped and will face evil consequences if she checks the Home Work and Class Work answer books of the Classes taught by Ms.J.P.Behera, PGT (Hindi) (Annex.IV).

That he said Ms.J.P.Behera, PGT (Hindi) by her aforesaid act has committed misconduct which tantamount to (i) dereliction of duty (ii) insubordination (iii) unbecoming of KVS employee which is violation of Rule 3(1) (ii) (iii) of CCS (Conduct) Rules."

3. After receipt of reply furnished by the applicant to the above memorandum of charges dated 31.01.2007 in Annexure-A/7, the Principal vide order under Annexure-15, imposed the punishment of withholding of one increment without cumulative effect for one year on the Applicant. Applicant carried the matter on appeal. The Appellate Authority in order under Annexure-A/7 dated 04.04.2008 in effect upheld the order of punishment by ordering as under:

"AND WHEREAS, the undersigned has gone through the charges levelled against Ms.J.P.Behera, her reply to the charge sheet, imposition of penalty by the Principal, submission of Ms.J.P.Behera in her appeal, comments of the Principal on the points raised by Ms. Behera in her appeal etc. and felt that Ms.J.P.Behera has disobeyed the orders of Principal and failed to carry out the work assigned to her by the High Authorities in time. Had she possess the teacher like quality, she should have evaluated the answer sheets given to her irrespective of the quantum of answer sheets, without entering into unnecessary arguments with the Principal, Vice-Principal and Examination I/c. Under this circumstances, I felt that the minor penalty of withholding of one increment for one years without cumulative effect imposed upon her by the Principal being the Competent

Disciplinary authority for minor penalties is just and there is no reason to reduce or set aside the same."

4. Applicant assails the aforesaid order on various grounds. But I find that none of the grounds put forward by Learned Counsel for the Applicant in support of his prayer has any legs to stand especially when considering all those grounds the Appellate Authority in a well reasoned order rejected the prayer of the Applicant thereby upholding the order of punishment imposed by the Principal in Annexure-A/15. However, in course of hearing, Learned Counsel for the Applicant submitted that this being a minor penalty and even after expiry of the penalty period, the Respondents are treating this punishment as stigma to throttle the future progress of the Applicant and, therefore, the Respondents may be directed not to treat this as a stigma for her future progress. I find the above submission of the applicant is genuine and as such, the Respondents are hereby directed not to treat this minor penalty as a stigma for considering the applicant for grant of any benefit in future.

5. In the result, this OA stands disposed of in the afore-stated terms. No costs.


(C.R. MOHAPATRA)
MEMBER (ADMN.)