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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. No. 260/00649 OF 2013
Cuttack, this the ~~20~~²¹ day of November, 2017

CORAM
HON'BLE MR. S. K. PATTNAIK, MEMBER(J)
HON'BLE DR. M. SARANGI, MEMBER (A)
.....

Dr. Prafulla Chandra Mohanty,
aged 52 years,
Son of Sri Ramakrishna Mohanty
residing at:- Madhusudannagar,
P.O:- Tulsipur, P.S:- Bidanasi,
Town & Dist:- Cuttack, Odisha
at present working as Post Graduate Teacher (Chemistry),
Kendriya Vidyalaya, ARC, Charbatia, PO:- Charbatia,
P.S:- Choudwar, Dist- Cuttack, Odisha

...Applicant

(By the Advocate-Mr. S. Mohanty)

-VERSUS-

Kendriya Vidyalaya Sangathan represented through

1. Commissioner, 18 Institutional Area, Saheed Jeet Singh Marg, New Delhi- 110016.
2. Deputy Commissioner and Disciplinary Authority, Kendriya Vidyalaya Sangathan, Regional Office, Pragati Vihar Colony, Mancheswar, Bhubaneswar-751017, Dist- Khurda, Odisha.
3. The Inquiring Authority and Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional office, Pragati Vihar Colony, Mancheswar, Bhubaneswar-751017, Dist- Khurda, Odisha.

...Respondents

(By the Advocate- Mr. H. K. Tripathy)

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8/6/2017
28/11/17

ORDER

S.K.PATTNAIK, MEMBER (JUDL.):

The applicant has filed this O.A. for quashing of the order dated 12.08.2013 (Annexure-A/8) by which the Deputy Commissioner and Disciplinary Authority of Kendriya Vidyalaya Sangathan, Bhubaneswar (Respondent No.2) has appointed one Mr. G.S.N.Reddy, Assistant Commissioner, KVS Regional Office, Bhubaneswar, as Inquiring Authority to inquire into the charges framed against the applicant.

2. The grievance of the applicant against the appointment of the Inquiry Officer may be summarized as follows:

The applicant was served with a charge memo dated 01.02.2012 (Annexure-A/1) under various articles of charges relating to various irregularities in the admission process of Kendriya Vidyalaya, Charbatia. The first ground advanced by the applicant is that since for the same misconduct several employees of Kendriya Vidyalaya have been charge sheeted, there should be one inquiring authority and since the charges arise out of same incident all the charged officers should be dealt jointly without segregating every individual employee. According to the applicant, since witnesses to be examined by the Kendriya Vidyalaya authorities are the same, on the principle of natural justice one inquiry authority should conduct the inquiry into the charges against all the charged officials to avoid conflicting reports. Further case of the applicant is that vide representation dated 04.09.2013 (Annexure-A/11), he had requested Respondent No.2 to appoint one inquiry authority to

8/8/2017
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inquiry into the charges framed against four charged officers as there will be serious prejudice if other delinquent employees are not dealt in one inquiry.

3. Respondents contested the case by filing a counter. According to the Respondents, the applicant only to delay the proceeding has filed the present case and he is facing disciplinary action not only for dereliction of duty but also for nepotism and malafide conduct amounting to fraud on the administration. Further case of the Respondents is that the charged official cannot dictate terms how inquiry should commence and whether there should be joint inquiry or individual inquiry as it is the prerogative of the competent authority to take such decision.

4. Before delving into the merit of this case, it may be stated at the outset that unless there is allegation of malafide or bias, an inquiry officer cannot be changed at the sweet-will of the delinquent employee. That apart, when several officers are facing misconduct charges relating to impropriety in admission in the educational institution, it is for the appropriate authority to decide whether all the delinquent employee should be tried jointly or to be tried separately. There may be conflict of interest and one employee throwing the buck on co-employee and, therefore, to avoid such uncomfortable situation, the competent authority has decided to segregate all the inquiries and to try individually, which will depend on the delinquency of each employee.

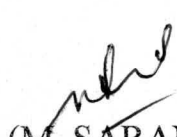
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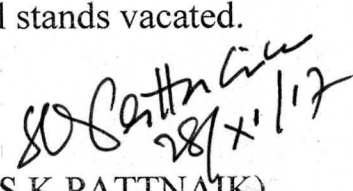
5. We may not lost sight of the fact that a co-employee, viz. Ganjan Gagaria had filed O.A. No. 801/2012 seeking quashing of the memorandum of charge and disciplinary proceeding. This Tribunal vide order dated 08.09.2017 had dismissed the O.A. observing that there was no element of malafide in initiating the disciplinary proceeding as there was clear cut allegation of omission, negligence and misconduct that too with an oblique motive of allowing ineligible students to get admission. The role of the present applicant was distinct and clear vis-à-vis his counter parts and, as such, initiation of an independent departmental proceeding against the delinquent employee cannot be faulted with.

6. We did not notice anything illegal or irrational in the initiation of the disciplinary proceeding individually against the present applicant calling for interference. Had the other stakeholders not been proceeded and the applicant being singled out or made the solitary scapegoat of the entire misconduct, the matter would have been different. There is no gainsaying the fact that other employees of the Kendriya Vidyalaya Sangathan are also facing departmental proceeding considering their role in the admission process. Hence ordered.

7. O.A. being devoid of merit is dismissed. No costs.

8. Interim order granted by this Tribunal stands vacated.


(M. SARANGI)
Member (Admn.)


(S.K. PATTNAIK)
Member (Judl.)