

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

ORIGINAL APPLICATION NO. 92/2007

Date of order: 29/10/2007

CORAM:

**HON'BLE MR. JUSTICE S.M.M. ALAM, JUDICIAL MEMBER
HON'BLE DR. K.S. SUGATHAN, ADMINISTRATIVE MEMBER**

O.P. Jalandhara S/o Shri Ram Lal, by caste Kumhar, aged about 49 years, resident of House No. 1081, Ward No. 13, Purani Aabadi, Sri Ganganagar, at present posted as Lecturer in Chemistry, Govt. High Secondary School, Vijaynagar, District Sri Ganganagar.

:Applicant.

Mr. J.S. Bhalaria, counsel for applicant.

VERSUS

1. Union of India through the Secretary, Ministry of Human Resources Development Department of Education, New Delhi.
2. The Commissioner, Navodaya Vidyalaya Samiti, Regional Office, 18, Sangram Colony, Mahavir Marg, C-Scheme, Jaipur.
3. The Dy. Commissioner, Navodaya Vidyalaya Samiti, Regional Office, 18, Sangram Colony, Mahavir Marg, C-Scheme, Jaipur.

... Respondents.

Mr. V.S. Gurjar, counsel for respondents.

ORDER

Per Hon'ble Dr. K.S. Sugathan, Administrative Member

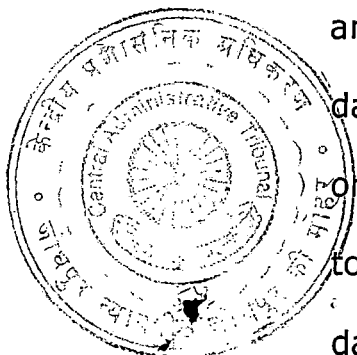
The applicant of this Original Application is presently working as a Lecturer in Chemistry in a Higher Secondary School



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under the Rajasthan State Education Department. He was on deputation to a Central Educational Institution called Navodaya Vidyalaya Samiti between the year 2002 and 2006. During the said period, he worked as the Principal of the Jawahar Navodaya Vidyalaya at Pachpadra, Dist. Barmer. He was also the Chairman of the Purchase Committee and was responsible for purchase of various materials required for the School. The audit of the purchases made by the applicant during the said period revealed some irregularities leading to loss of Government revenues. On the basis of the audit report the applicant was called upon to make good the loss amounting to Rs.190085/- by memorandum dated 30.04.2006 (Annex. A/7). Subsequently, considering the explanations submitted by the applicant the amount to be recovered was reduced to Rs.75987/- vide letter dated 24.05.2006. The applicant submitted further explanations on the audit report and based on those explanations the amount to be recovered was further reduced to Rs.62,844/- by letter dated 05.04.2007 (Annex. A/1), which is under challenge in this Original Application. The applicant has prayed for the following reliefs:

- "(A). the impugned order Annexure A/1 dated 05.04.2007 may kindly be quashed and set aside.
- (B). the respondents may kindly be restrained to make any recovery in pursuance of the order dated 05.04.2007 Annexure A/1 from the applicant.
- (C). Any other direction/relief/order may be passed in favour of the applicant which may be



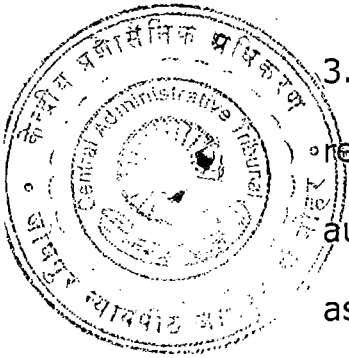
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deemed just and proper under the facts and circumstances of the case.

(D). That the cost of this application may be awarded.

2. It is contended by the applicant that the aforesaid recovery has been ordered without following the procedure prescribed under the CCS(CCA) Rules. No formal enquiry has been conducted. That he followed the recommendations of the purchase Committee. No action has been taken against the other members of the Purchase Committee. The Committee recommended purchase of the required items from the Jodhpur Sahakari Wholesale Bhandar. That he has followed the procedures prescribed. There is no allegation that the applicant has misappropriated any government money. .

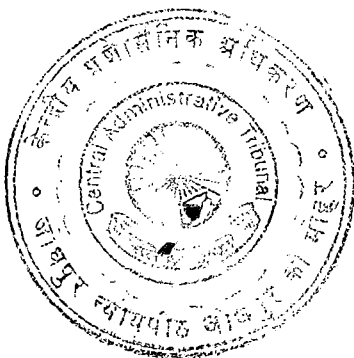


3. The respondents have filed a reply. It is contended in the reply that serious irregularities were detected in the internal audit of the School when the applicant was the Principal as well as Chairman of the Purchase Committee. The applicant has purchased items required for the School without following the prescribed procedure. The purchase of dry rations from the Wholesale Bhandar was continued in spite of the observations of the Mess Committee that the rates being paid are higher. The respondents have an open mind and examined the explanations given by the applicant and thereafter reduced the amount to be

recovered to the extent possible. The applicant was given ample opportunity to put forward his explanations and his explanations were duly considered. The principle of natural justice has been complied with. The applicant is no longer under the administrative control of the respondents. He has been repatriated to the parent department.

4. We have heard the learned counsel for the applicant Shri J. S. Bhalaria and the learned counsel for the respondents Shri V. S. Gurjar. We have also perused the documents carefully.

5. The issue for consideration in this Original Application is whether the respondent's action in ordering recovery of certain financial losses can be sustained in the eye of law. The recovery of any pecuniary loss to the government on account of the negligence or breach of orders is a minor penalty under Rule 11 of CCS (CCA) Rules. However before imposing such a minor penalty it is incumbent on the respondents to follow the procedure laid down in Rule 16(1) of the said Rules and prove that the pecuniary loss arose out of the negligence or breach of orders committed by the applicant. Rule 16(1) reads follows:

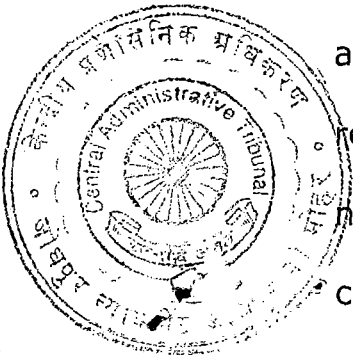


"16. Procedure for imposing minor penalties

(1). Subject to the provisions of sub-rule (3) of Rule 15, no order imposing on a Government servant any of the penalties specified in Clause (i) to (iv) of Rule 11 shall be made except after -

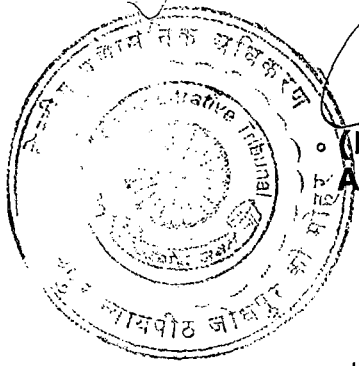
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- (a) informing the Government servant in writing of the proposal to take action against him and of the imputations of misconduct or misbehaviour on which it is proposed to be taken, and giving him reasonable opportunity of making such representation as he may wish to make against the proposal;
 - (b) holding an inquiry in the manner laid down in sub-rules (3) to (23) of Rule 14, in every case in which the Disciplinary Authority is of the opinion that such inquiry is necessary;
 - (c) taking the representation, if any, submitted by the Government servant under Clause (a) and the record of inquiry, if any, held under Clause (b) into consideration;
 - (d) recording a finding on each imputation of misconduct or misbehaviour; and
 - (e) consulting the Commission where such consultation is necessary."

6. It is seen from the records that the respondents have not followed the prescribed procedure before imposing the penalty of recovery from the applicant. Merely forwarding copy of the audit report and seeking explanations from the applicant does not amount to compliance of the required procedure. The respondents will have to ^a issue ~~to~~ formal show cause notice/charge memo and after considering the reply to the charge memo decide whether a detailed enquiry under Rule 14 is warranted or not. As the prescribed procedure for imposing the penalty has not been followed, we are of the considered view that the order of recovery dated 05.04.2007 (the impugned order) cannot be sustained. However the respondents will be at liberty to follow the procedure and take appropriate action. As the applicant is presently not under the administrative control of the respondents, it is open to the respondents to send a formal



proposal to the parent Department of the applicant for initiating proceedings under the relevant rules.

7. For the reasons stated above, the Original Application is allowed. The impugned order dated 05.04.2007 ordering recovery of an amount of Rs.62,844/- from the applicant is quashed and set aside. The respondents are given liberty to follow the procedure prescribed under the relevant rules and take appropriate decision. No order as to costs.



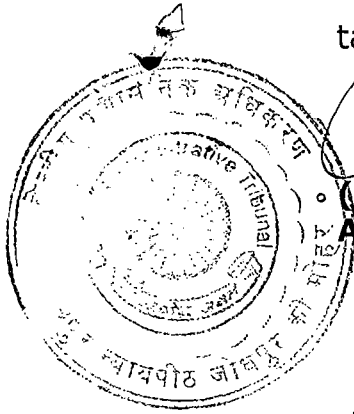
(DR. K.S. SUGATHAN)
ADMINISTRATIVE MEMBER

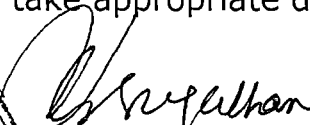
(JUSTICE S.M.M. ALAM)
JUDICIAL MEMBER

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(DR. K.S. SUGATHAN)
ADMINISTRATIVE MEMBER

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(JUSTICE S.M.M. ALAM)
JUDICIAL MEMBER

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under the supervision of
section officer () as per
order dated 07/07/2015

Section officer (Record)