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CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR

**O.A. No. 281/2010 & MA 131/2011**

Jodhpur this the 22<sup>nd</sup> August, 2013.

**CORAM**

**Hon'ble Mr.Justice Kailash Chandra Joshi, Member (J)**

Smt Manju Garg W/o S.K. Garg, aged about 50 years, by caste Garg, r/o 410, Gandhi Basti, Ward No. 14, Sriganganagar, presently working on the post of TGT English in Kendriya Vidyalaya, Sriganganagar Cantonment. ....Applicant

(Through Advocate Mr Manoj Bhandari)

**Versus**

1. Union of India through the Secretary, Ministry of Human Resources, New Delhi. ....Since deleted
2. The Commissioner, Kendriya Vidyalaya Sangathan, 18, Institutional Area, Saheedjeet Singh Marg, New Delhi-110016.
3. The Assistant Commissioner, Kendriya Vidyalaya Regional Office, 92, Gandhi Nagar Marg, Bazar Nagar, Jaipur.
4. The Principal, Kendriya Vidyalaya, Sriganganagar Cantonment.
5. Shri U.M. Meghwal, Principal, Bhilwara Kendriya Vidyalaya, Bhilwara

(Through Advocate Mr Avinash Acharya)

....Respondents

**ORDER (Oral)**

The Miscellaneous Application No. 131/2011 for deletion of respondent No. 1 from the array of respondents is allowed because the Commissioner, Kendriya Vidyalaya Sangathan has already

been impleaded as party-respondents. Therefore, respondents No.1, Union of India through Secretary, Ministry of Human Resources Development, New Delhi be deleted from the array of respondents and the Misc. Application is disposed accordingly.

**The office to mark with red-ink deletion of respondents**

**No. 1 in file.**

2. The applicant Smt Manju Garg by way of this application has challenged the legality of the order Annex. A/1 dated 02.09.2010 by which the Appellate Authority has rejected her appeal and Annex. A/2 dated 30.07.2009 by which the Disciplinary Authority imposed penalty of reduction to one increment w.e.f. 1<sup>st</sup> July, 2009 for a period of one year without cumulative effect and not adversely affecting her pension respectively.

3. The short facts of the case are that the applicant was initially appointed by a regular selection process in the year 1985 in Kendriya Vidyalaya Sangathan (KVS), Chandigarh Region as Primary Teacher and thereafter she was promoted as TGT English. The applicant's services had remained absolutely unblemished through out her entire career of service except that she was censured earlier in the year 2002. The applicant is teaching English subject to the students studying from 6<sup>th</sup> to 10<sup>th</sup> standards and the result of 10<sup>th</sup> CBSE Board Examination for last 5 years had remained more excellent and in the last year i.e. 2008-09

percentage of 10<sup>th</sup> CBSE Board in Kendriya Vidyalaya Sriganagar remained upto 81.82%.

The applicant was served a chargesheet under rule 16 of the CCS (CCA) Rules, 1965 indicating that she has violated Rule 3 (i), (ii) and (iii) of the CCS (Conduct) Rules, 1964. The applicant filed detailed reply to the charges but being not satisfied with the reply, the Disciplinary Authority passed order Annex. A/2 and imposed penalty of reduction to one increment w.e.f. 1<sup>st</sup> July, 2009 for a period of one year without cumulative effect and not adversely affecting her pension. Being aggrieved by the said order, the applicant preferred an appeal which was dismissed by the Appellate Authority. Therefore, aggrieved by the orders Annex. A/1 and A/2, the applicant has filed the present OA.

4. By way of reply the respondent-department has averred that the applicant failed to perform the task assigned to her even in the year 2002 including the year 2008-09. She was also served memorandum under CCS (CCA) Rules, 1965 for poor performance, missing her class and censured in the year 2003 and was also issued warning dated 07.10.2010 for missing her class/period. Therefore, the applicant has not come with the clean hands and suppressed the material facts of earlier punishments. The respondent-department emphatically denied the content of the OA and further averred that the percentage of the result is being considered by KVS to maintain quality of the education. The

important factor in the field of higher education is the type of person entrusted with teaching and teaching cannot be improved without competent teachers and looking to the poor performance of the applicant, she was served with the memorandum and after giving due opportunity to explain, the punishment order Annex. A/2 was passed. In support of their reply, the respondent-department referred the various judgments of Hon'ble Apex Court for keeping high standards of educational institutions and to improve the quality of education in KVS.

5. By way of rejoinder while reiterating the same facts the applicant averred that she is not guilty for the poor result and she taught her students making all efforts so that students should get the best percentage in the examination but the fact remains that she cannot go and give examination in their place for best of the percentage in the examination. She further averred that school & management is punishing her on such grounds which are arbitrary and should not be permitted to sustain in the eye of law.

6. Counsel for the applicant contended that merely on the ground that result in the subject, which the applicant taught, has been dropped, a teacher cannot be punished as there is no allegation of misconduct in service and merely the result of the subject does not provide any penalty. He further contended that order Annex. A/2 is a non-speaking order and such punishment

cannot be imposed merely on the basis that result of the students in a particular subject is less than prescribed norms. He also contended that there is no allegation against the applicant that this happened due to some commission or omission on the part of the applicant and result of an examination may go down for various reasons and in every case the teacher cannot be held responsible for it and totally on this ground the charge leveled against the applicant does not constitute any misconduct. Therefore the penalty order is also illegal. In support of his argument he relied upon the following judgments of Hon'ble Rajasthan High Court as well as Hon'ble Apex Court:

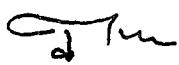
- I. Dharmveer vs State of Rajasthan & Ors reported in 2005 (5) RDD 1219 (Raj)
- II. Shailendra Kumar Bhatt vs State of Rajasthan & Ors reported in 2013 WLC (Raj) UC 501
- III. Charan Singh & Ors vs RSRTC & Anr. reported in 2003 (1) CDR 899 (Raj.)
- IV. Ashok Kumar Kulhari vs State of Raj. & Ors reported in 2009 WLC (Raj) UC 53
- V. Hari Kishan Sharma vs State of Raj. & Anr. reported in 2013 (2) WLN 175 and
- VI. S.N. Mukherjee vs UOI reported in AIR 1990 S.C. 1984.

7. Per contra counsel for the respondents contended that Hon'ble Apex Court in several decisions held that teaching cannot be improved without competent teachers and the organizations have to be very strict in maintaining high academic standards and maintaining academic discipline and academic rigour if this country is to progress. He further contended that the teachers lay the seed for the foundation of morality, ethics and discipline and

qualified and efficient teachers is a sine qua non for maintaining high standards of teaching in any educational institution, therefore, the applicant has been rightly punished for the reduction in the percentage of result of the concerned subject which she taught.

8. I have considered the rival contentions of both the parties and also perused the judgments cited by both counsels. It is settled principle of law that an individual teacher cannot be held liable for the reduction of result of a particular subject and it cannot be held that due to slackness, carelessness or due to some act of commission or omission on the part of the applicant, the result has reduced in comparison to earlier years. It is well settled that to constitute misconduct in a service, there must be commission or omission of some act on the part of the employee. It is also well settled principle of law that the order of penalty must be reasoned order giving specific reasons for considering explanation submitted by the person concerned. In the present case, the Annex. A/2 does not contain any reason why the explanation of the applicant was unsatisfactory and what was the misconduct on the part of the applicant? The bad result may be on account of various reasons for which the teacher alone cannot be held responsible. Thus, this Tribunal feels that impugned order Annex. A/2 dated 30.07.2009 and Annex. A/1 being arbitrary and bad in the eye of law deserve to be quashed.

9. The OA is accordingly allowed and the orders Annex. A/1  
and A/2 are quashed and necessary consequences to follow. There  
shall be no order as to costs.

  
(**JUSTICE K.C. JOSHI**)  
**JUDICIAL MEMBER**

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