

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.577/2011

Date of decision:02.08.2012

**HON'BLE Mr. G. SHANTHAPPA, JUDICIAL MEMBER,
HON'BLE Mr. B.K.SINHA, ADMINISTRATIVE MEMBER.**

Lal Singh Gehlot S/o Shri Banne Singh Gehlot, aged 55 years, by caste Rajput, R/o House No.109, Nakoda Nagar, Jhanwar Road, Jodhpur (Raj.), working as UDC Kendriya Vidyalaya (K.V.) Jalipa Cantt. District Barmer.

: Applicant

Mr. K.S. Chouhan, counsel for applicants.

Versus

1. Commissioner, Kendriya Vidyalaya Sangathan (KVS) 18, Institutional Area, Sahid Jeet Singh Marg, New Delhi.
2. Deputy Commissioner, KVS, Jaipur Region, 92, Bajaj Nagar, Gandhi Nagar Marg, Jaipur – 15 (Raj.).

.....Respondents

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

ORDER (ORAL)
Per G. Shanthappa, Judicial Member

The above application is filed under Section 19 of the Administrative Tribunals Act, 1985 challenging the legality and propriety of the charge memo dated 02.10.2011 and the letter dated 08.12.2011, and further relief to direction to consider the case of the applicant for grant of 2nd ACP vis-à-vis to Smt.Chanda Rathore and in grade pay Rs.42000/- and the arrear be paid to the applicant alongwith interest @ 18% p.a.

2. It is admitted from either side that the applicant was served with a charge memo dated 20.10.2011 alongwith imputation of



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charges, list of documents, and list of witnesses. The imputations of charges are reads as under:-

"That, Shri Lal Singh Gehlot, UDC, KV, Jalipa Cantt while working at KV No.1 Army Jodhpur has deliberately drawn the Grade Pay of Rs.4200/- per month w.e.f. 01.08.2010 to 31.05.2011 unauthorizedly instead of his eligibility for Grade Pay of Rs.2800/- as per the implementation of the recommendations of VI Central Pay Commission.

The aforesaid act on is part constitutes a serious misconduct which is violative of Rule 3 (1) (i), (ii) & (iii) of CCS (Conduct) Rules, 1964 as applicable to the employees of KVS. "

3. After receipt of the charge memo, the applicant submitted his representation dated 23.11.2011 (Page Nos.42 and 43 of the OA), to the charge memo. The applicant has submitted his detailed representation in respect to the withdrawing the charge memo. When no decision has been taken by the authorities, as his representation he has filed the present OA challenging the charge memo.

4. After service of notice, the respondents have filed a short reply, in which they have contended that the OA is not maintainable, and they have supported the issuing of charge memo. The respondents have relied on the judgment of the Hon'le Supreme Court in the case of **Union of India vs. Kunisetty Satyanarayana**, reported in (2006) 12 SSC 28.

5. We have carefully gone through the facts and circumstances of either sides or also Rule 14 (4) CCS (CCA) Rules. When the applicant has submitted his representation to the charge memo, it is the inherent power of the Disciplinary Authority to go through the representation and dropped proceedings or can review or modify the articles of charges, and no decision has been taken by

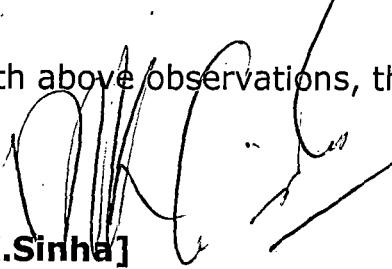
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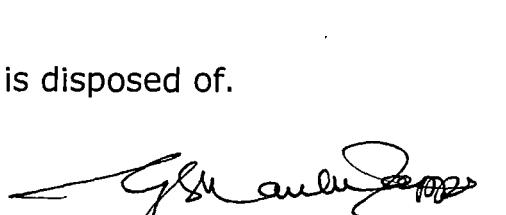
the Disciplinary Authorities, the applicant has filed the present OA without waiting of the order/decision of the Disciplinary Authority.

6. Under the facts and circumstances of the case, we are of the view that justice will be met if direction is given to the Disciplinary Authority to decide the representation submitted by the applicant to the charge memo. The learned counsel for the applicant submits that a direction be given to the concerned authority to consider the case of the applicant under Rule 14 (4) CCS (CCA) Rules. Our observations made earlier will not come in the way to take independent decision in accordance with the rules.

7. Considering the submission made from either side, we direct the Disciplinary Authority, respondent No.2, to decide the representation submitted by the applicant (supra) in accordance with Rules within a period of one month from the date of receipt of copy of this order.

8. With above observations, the OA is disposed of.


[B.K.Sinha]
Administrative Member


[G. Shanthappa]
Judicial Member

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