

**CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH
LUCKNOW**

Original Application No 455 of 2007

Order Reserved on 13.3.2014.

Order Pronounced on 31-03-2014

HON'BLE MR. NAVNEET KUMAR MEMBER (J)
HON'BLE MS. JAYATI CHANDRA, MEMBER (A)

Rati Ram Maurya, aged about 46 years, son of Late Shri Chhotey Lal Maurya, resident of MM-1/167 G, Vineet Khand, gomti Nagar, Lucknow posted as PGT (Physics) in Kendriya Vidyalaya, Lucknow Cantt, jDistrict Lucknow.

Applicant

By Advocate Sri Praveen Kumar

Versus

1. Kendriya Vidyalaya Sangathan, New Delhi through its Commissioner.
2. Commissioner, Kendriya Vidyalaya Sangathan, New Delhi.
3. Assistant Commissioner, Kendriya Vidyalaya Sangathan, Lucknow Region, Lucknow.
4. Principal, Kendriya Vidyalaya, Lucknow Cantt, Lucknow.
5. Shri Jai Prakash Yadav, Principal, Kendriya Vidyalaya, Lucknow Cantt., Lucknow

Respondents

By Advocate Sri Surendran P.

ORDER

By Hon'ble Mr. Navneet Kumar, Member (J)

The present Original Application is preferred by the applicant under Section 19 of the AT Act, 1985 with the following relief(s):-

- (a) Issuing/passing of an order or direction setting aside the impugned punishment order dated 6.5.2006 issued/passed by the respondent No. 4/5, through which penalty of withholding of next increment with immediate effect for two years has been inflicted upon the applicant (as contained in Annexure No. A-1 to the Original Application), after summoning the original records from the respondents.
- (a-i) issuing/passing of an order or direction setting aside the impugned appellate order dated 24.1.2008, passed by the Respondent No. 3 rejecting the appeal of the applicant (as contained in Annexure No. A 11 to the Original Application), after summoning the original records.
- (b) issuing/passing of any other order or direction as this Hon'ble Tribunal considers appropriate in the




circumstances of the case including award of the cost of this Original Application to the applicant.”

2. The applicant was initially appointed in the respondents organization and after serving for some time, the applicant was given a show cause notice asking him to give representation against the proposed action. The applicant submitted an application and requested for providing the copy of the alleged complaint. Thereafter, the applicant was given the copy of the complaints and was asked to submit the representation by 6.5.2006. He submitted the representation and on the same date, the applicant was punished by an order imposing withholding the next increment for another two years. The learned counsel for the applicant categorically pointed out that there was a reference of the inquiry report in the punishment order. As such, he sought a copy of the inquiry report. The copy of the inquiry report was also provided to the applicant and thereafter, the applicant preferred an appeal. The said appeal could not be disposed of by the respondents. As such, he preferred the present O.A.

3. After filing of the O.A., the applicant preferred an amendment application and pointed out that the appeal dated 12.6.2006 preferred by the applicant got rejected by the respondents vide order dated 21.1.2008. As such, by means of an amendment, the applicant has also challenged the appellate order as well.

4. The learned counsel appearing on behalf of the respondents filed their reply and through reply, it was pointed out by the respondents that the respondents organization is a society which is registered under the Societies Registration Act 1980 and is an autonomous body. The functioning of the Kendriya Vidyalaya Sangathan and full administrative and financial control is rest with the Board of Governors which is the supreme body. An Education Code has been framed which contained Rules and Regulations for the employees of Kendriya Vidyalayas and the same is approved by the Board of Governors. Not only this, it is again pointed out by the learned counsel for the respondents that Article 80 of



Education Code deals with discipline and for this purpose, the CCS/CCA Rules, 1965 has been extended to all the employees. Accordingly, for the misconduct of the applicant, a memorandum was issued to the applicant under Rule 16 of CCS(CCA) Rules, 1965 with a direction to submit a reply. After considering the reply, the penalty was imposed upon the applicant. The learned counsel for the respondents has also pointed out that the applicant was also provided documents asked for by him. The applicant was also provided copy of the complaint and after the punishment order imposed upon the applicant, the applicant preferred the appeal which was also decided by the Appellate Authority. On behalf of the respondents, it is also pointed out that there is no such Rule under Rule 16 of CCS(CCA) Rules to provide a copy of the inquiry or conduct a full fledged inquiry. The opportunity was given to the applicant and thereafter the punishment was awarded considering the fact finding inquiry duly conducted by the respondents. As such, it does not requires interference by this Tribunal.


5. The learned counsel appearing on behalf of the applicant has filed the rejoinder and through rejoinder, mostly the averments made in the O.A. are reiterated.

6. The factual aspects of the case is that the applicant worked with the respondents organization and while working, a memo was issued and the applicant was required to submit the reply to the said memo. The applicant asked for certain documents which were also provided to him. Not only this, the applicant was given the copy of the complaint and after submission of the representation of the applicant, the punishment was imposed upon the applicant whereby the penalty of withholding of next increment for a period of 2 years was issued. The applicant was also given the copy of the statement of imputation of misconduct or misbehavior, and as per the said statement, it is provided that he has misbehaved with a student of Class IX- A namely Km. Sakshi and her brother Swapnil of Class VIII-B. Not only this, it is also alleged that the applicant used un parliamentary language against the students and also

punished the students without any established reason. The behavior of the applicant with student is also not fair as per the Teacher- pupil relation as mentioned in code of conduct of KVS Education Code. The copy of the complaint by the student and her mother was also provided to the applicant. The applicant also preferred an appeal against the said punishment order and while deciding the appeal, the Appellate Authority passed the order on 24.1.2008, while passing the order the Appellate Authority has categorically pointed out that the procedure laid down in the case of departmental proceeding under Rule-16 of CCS (CCA) Rules, 1965 has come to the conclusion that provision of personal hearing etc during the course of preliminary inquiry, the applicant was found guilty, as such, rejected the appeal of the applicant. The bare perusal of the fact finding inquiry, the students also given statement against the applicant and it is mentioned in the said questionnaire that the applicant used the word "Choor and Thief" and this fact was ascertained by one co-student while answering question No. 9. and 10 in the preliminary enquiry.

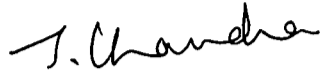
7. In the case of **Regional Manager, U.P. SRTC, Etawah and others vs. Hoti Lal and another reported in (2003) 3 SCC 605**, the Hon'ble Apex Court clearly observed that **"If the charged employee holds a position of trust where honesty and integrity are inbuilt requirements of functioning, held the matter should be dealt with iron hands and not leniently."**

8. As observed by the Hon'ble Apex Court in the case of **O.K. Bhardwaj Vs. Union of India and others reported in 2002 SCC (L&S) 188**, that **"even in the case of a minor penalty an opportunity has to be given to the delinquent employee to have his say or to file his explanation with respect to the charges against him."** In the instant case, the applicant was provided the copy of the complaint and the copy of the inquiry report and thereafter, the disciplinary authority and the appellate authority has passed the final

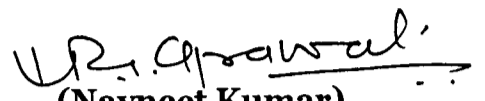


order. As such, we do not find any illegality in the inquiry and the impugned orders.

9. Accordingly, the O.A. is fit to be dismissed and is accordingly dismissed. No order as to costs.



(Ms. Jayati Chandra)
Member (A)


(Navneet Kumar)
Member (J)

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