

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA.

O.A. No 407 of 2006 with MA 364 of 2006

Date of order : 13th January 2012

CORAM

Hon'ble Mr. Naresh Gupta, Member [A]
Hon'ble Mrs. Urmita Dutt (Sen), Member [J]

Ram Naresh Bhargava, S/o Late Lakshmi Prasad Bhargava, r/o Sadupur, Tehsil – Gadarwar, District – Narsinghpur [Madhya Pradesh], functioning as Principa, Kendriya Vidyalaya No. II, Army Service Core [North], Paharpur, Gaya [Bihar]

.....Applicant.

By Advocate : Shri Sidharth Prasad

Vs.

1. The Union of India through the Secretary, Human Resources Development Ministry, North Block, Delhi.
2. The Chairman, Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi.
3. The Vice-Chairman, Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi.
4. The Commissioner, Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi.
5. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Patna, Lohianagar, Kankarbagh, Patna.
6. The Education Officer cum Enquiry Officer, Kendriya Vidyalaya Sangathan, Regional Office, Patna, Lohianagar, Kankarbagh, Patna.
7. The Chairman, Vidyalaya Management Committee, Kendriya Vidyalaya No. II, Army Service Core [North] Paharpur, Gaya.

.....Respondents.

By Advocate : Shri G.K. Agarwal.

ORDER

Naresh Gupta, M [A] - This OA has been filed by one Ram Naresh Bhargava for quashing the order in memo dated 03.05.2000 [Annexure A/1 of OA] by which the services of the applicant were terminated. The facts of the case as presented in the OA are briefly as follows:

2. While the applicant was working as Principal, Kendriya Vidyalaya No. II, Army Service Core [North] Paharpur, Gaya, one Naik Subedar, S.P. Sharma filed a complaint on 07.02.2000 that the applicant had harassed his daughter, Kumari Rashmi Sharma who is student of the said school [Annexure A/2 of OA]. It is alleged that this complaint was on the basis of instigation by one Smt. Purnima Sinha, teacher of the said school. The applicant was asked to submit his reply on the said complaint by the

Chairman of the Vidyalaya Management Committee. The applicant submitted his reply on 13.02.2000 [Annexure A/3 of OA], and on following day, after completion of one meeting of the Management Committee, the Chairman, Birgadier Thakur Tarsem Singh inquired the applicant regarding the complaint. On 17.02.2000, a letter was issued by the Presiding Officer asking the applicant to appear in the court of enquiry to be held on 18.02.2000. The applicant could not appear in the court of enquiry as, according to him, he received the letter after the expiry of the said date. In the meantime, there were some reports in the News Papers containing allegations that the applicant was harassing girl students in the school, and accordingly, the Education Officer of Kendriya Vidyalaya Sangathan, [KVS] Regional Office, Patna was appointed as inquiry officer, and the Principals of Kendriya Vidyalaya No. 1, Gaya and of Deepa Toli, Ranchi were appointed as Members of the Inquiry Committee to conduct the inquiry, but no formal charge sheet was served upon the applicant nor the list of witnesses or documents given to the applicant. Further, according to the OA, the said Inquiry Committee did not submit the report, and the applicant was not given any opportunity to defend his case. Thereafter, the Commissioner of KVS passed the impugned order on 03.05.2000 for termination of the service of the applicant holding that the allegations levelled against him were proved. The applicant challenged the above order before the Hon'ble Patna High Court in CWJC No. 4560 of 2000, which was later dismissed as withdrawn by the applicant to enable him to raise his grievance before this Tribunal,

3. The respondents, in their written statement, have stated that a complaint was lodged by Naik Subedar, Shri S.P. Sharma, ASC [N] Centre, Paharpur, Gaya to the Commissioner, Patna Region that the applicant who was Principal, Kendriya Vidyalaya No. II, Gaya misbehaved with his daughter, Kumari Rashmi Sharma, a student of Class VII of the Vidyalaya on 04.02.2002 in his chamber. The parent also lodged a F.I.R against the Principal at Magadh Medical College Police Station, Gaya. The police arrested the applicant on 18.02.2000 and the learned Chief Judicial Magistrate released him on bail on the same day. All the local Newspapers published news regarding the alleged incident. Thereafter, a fact-finding inquiry was conducted by a committee consisting of Shri C. Neelap, Education Officer, KVS, Regional Office, Patna, Dr. [MS.] L. Verma, Principal, Kendriya Vidyalaya. Dipa toli and Shri J.N. Raut, Principal, Kendriya Vidyalaya No. 1,

Gaya on 22.02.2000, 23.02.2000 and on 01.03.2000 and concluded that the allegation against the applicant could not be denied totally, and a prima facie case was made out against the applicant. The evidences proved that the applicant would call the girl students to his chamber and insisted on them to come alone. He touched the private parts of the girls like back, hips and even under the skirts on the plea of encouraging them for their work. It was also revealed that the Principal behaved the same way with other girl students earlier on many occasions in the Principal's chamber. As concluded in its report dated 01.03.2000 by the Committee Members, the applicant was found prima facie guilty of moral turpitude by his immoral behaviour towards the girl students. Based on the report, evidences on record, the statements of the victim and other girl students, recorded during the inquiry and the statement of the applicant, the Commissioner, KVS terminated the services of the applicant vide the impugned order dated 03.05.2000 in accordance with the terms of Article 81 [b] of the Education code for Kendriya Vidyalayas, dispensing with the regular inquiry. In their supplementary written statement, the respondents have stated that a case of like nature was dealt with by the Hon'ble Patna High Court in CWJC No. 4689 of 2009 [KVS vs. Ajit Kumar] in which the Hon'ble High Court had upheld the resort to summary procedure in terminating the services of the respondent in that case and set aside the order of the Tribunal Patna Bench in OA No. 389 of 2003 [The Tribunal had set aside the order of termination of services of the applicant in that OA].

4. Aggrieved by the above order, the applicant is stated to have preferred an appeal dated 15.05.2000 to the Vice-Chairman, KVS, and the said appeal of the applicant has not yet been disposed of by the Vice-Chairman, and thus, the applicant has tried to avail himself of the two remedies simultaneously, that is, appeal before the Vice-Chairman, KVS and at the same time moving the Hon'ble Patna High Court by a writ petition No. CWJC No. 4560 of 2000 and thereafter, this Tribunal.

5. Heard the learned counsel for the applicant and the respondents and perused the entire record.

6. In as much as ^{an} ~~the~~ appeal has been filed to the Vice-Chairman, KVS, which is said to be pending [according to the written statement filed on behalf of the respondents], it would not be appropriate for this Tribunal, at this juncture to go into the

issues raised in this OA, in view of the provisions of Section 20 of A.T. Act, 1985. In this view of the matter, the concerned appellate authority is directed to dispose of the pending appeal of the applicant after providing an opportunity to the applicant to represent his case before him. If the applicant is aggrieved by the order of the appellate authority and thereafter, if statutory revision is provided for against the order of the appellate authority, then after exhausting that remedy also, the applicant can, if so desired, agitate the matter before this Tribunal by filing a fresh OA. With this, the OA stands disposed of along with MA bearing No. 364 of 2006 filed by the applicant for condonation of delay in filing this OA. No order as to costs.

Urmita Datta (Sen)
[Urmita Datta (Sen)] M [J]

Naresh Gupta
[Naresh Gupta] M [A]

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