

## CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCHO.A.NO.: 232 OF 2006[Patna, this Friday, the 23<sup>rd</sup> Day of May, 2008]C. O R A M

HON'BLE MR. SHANKAR PRASAD, MEMBER [ADMN.]  
 HON'BLE MS. SADHNA SRIVASTAVA, MEMBER [JUDL.]

K.K.Ojha, P.G.T. Physics, K.V., Kankarbagh.  
By Advocate :- Shri [Dr.] S.P.Singh.

..... APPLICANT.

Vs.

1. Union of India, Ministry of HRD [Deptt. Of Education] Shashtri Bhavan, New Delhi-110 001, service through Commissioner KVS, 18 Institutional Area.
  2. The Commissioner, Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi - 110 016.
  3. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Patna Region, P.O.: Lohiya Nagar, Kankarbagh, Patna-800 020.
  4. The Education Officer, Kendriya Vidyalaya Sangathan, Patna Region, P.O- Lohia Nagar, Patna-800 020.
- By Advocate :- Shri G.K.Agarwal, ASC.

..... RESPONDENTS.O R D E R [ORAL]

Shankar Prasad, M[A] :- Aggrieved by the order dated 08.12.2003 of the disciplinary authority imposing the minor penalty of withholding of three increments without cumulative effect, and that of appellate/revisional authority upholding the same, the applicant has preferred the present OA. He seeks the quashing of these orders.

2. The facts lie in a narrow compass. The applicant was served with a minor penalty chargesheet dated 02.07.2003 on account of deplorable performance of students in Physics of Class XII of K.V., Ghazipur. The statement of imputations shows that gaps have been filled in a printed format.

The applicant <sup>submitted</sup> ~~submitting~~ his reply dated 14.07.2003 raising various contentions including that of [a] very weak students being promoted by moderation board, and [b] Inspection team of K.V.S [RO] visiting the school and observing his teaching. The disciplinary authority held as under :-

“AND WHEREAS the undersigned has considered the points adduced by Shri K.K.Ojha in his representation and has found that the averments put forth by him are extraneous and are not good and sufficient to negate the charges. The poor result of 58% is not negated. All his contentions to justify the poor result and efforts to improve the result as stated become extraneous once he failed to produce the desired result. He is therefore guilty of the charges.”

The appeal and revision failed.

3. We have heard the learned counsels.

4. The respondents in para 2 of the reply have contended that OA is barred by limitation as the order of disciplinary authority is passed in 2003. We find that orders of revisional authority are passed on 08.03.2006 and the OA is preferred in April, 2006. The limitation has to be counted from the date of orders of the revisional authority. The decision of Apex Court in S.S.Rathore Vs. State of M.P.; AIR 1990 SC 10 refers. This contention is stated to be rejected. Such objections ought not to have been raised.


5. The Apex Court in S.N.Mukherjee Vs. U.O.I.; AIR 1990 SC 1984, has recognised the duty to give reasons so that they can be looked into at the time of appeal/revision, etc.


6. A perusal of the orders of disciplinary authority shows that reasons have not been assigned. The Appellate Authority has failed to consider as to whether the inquiry was properly conducted. The decision of <sup>the</sup>

Apex Court in Ram Chandra Vs. U.O.I. & Ors.; 1996 SCC [L&S] 786 refers.

7. The Apex Court in Institute of Chartered Accountants Vs. L.K.Ratna; AIR 1987 SC 71 has held that defects at the level of disciplinary authority cannot be cured in appeal.

8. We, accordingly, quash and set-aside the orders of disciplinary/appellate and revisional authorities and direct the disciplinary authority to proceed from the stage of considering his reply.

  
[Sadhna Srivastava]/M[J]

  
[Shankar Prasad]/M[A]

skj.