

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
O.A. No. 792 of 2005

Patna, dated the 10th of April, 2007

CORAM: The Hon'ble Ms. S.Srivastava, M[J]
The Hon'ble Mr S.N.P.N.Sinha, M[A]

Keshav Prasad Singh, son of Late Haribansh Narayan Singh, Village Handar, PS Gaurichak, District Patna, and Ex Asstt. Superintendent, Kendriya Vidyalaya No.2, Gaya.

By Advocate: Mr.A.K.Singh

Applicant

versus

1. The Union of through the Secretary, Ministry of HRD, Department of Education, New Delhi.
2. The Commissioner, Kendriya Vidyalaya Sangathan, New Delhi.
3. The Joint Commissioner, Kendriya Vidyalaya Sangathan, New Delhi.
4. Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Kankarbag, Patna.

By Advocate: Mr. G.K.Agrawal

Respondents

ORDER

S.N.P.N.Sinha, M[A]:

The present application has been filed for quashing an order of the respondents dated 12.4.2005 along with a subsequent appellate order dated 1.9.2005. The applicant was posted as Assistant Superintendent i Kendriya Vidyalaya No.2 at Gaya. He was served with an order from respondent no.4 placing him under suspension and communicating contemplation of departmental proceeding[dated 26.4.2004-Annexure-A/1]. No show-cause notice was issued before this. A memorandum of charges was issued on 27.7.2004 [Annexure-A/2 with the OA]. The imputations of misconduct or misbehaviour were mentioned along with list of documents. In charge no.1 it was stated that

during the year 2003-2004, he had shown lack of integrity and fabricated a payment voucher for Rs.1260/-. The second article of charge disclosed that during the same year, he failed to discharge his responsibility as Assistant Superintendent and failed to chalk out the planning for purchase of furniture and did not get the requisites from furniture incharge or assess the position. The third charge related to showing liabilities of Rs.673464/- as against the balance of Rs.19741/-. These are said to be based on investigations made and audit inspection. But these documents were not given to him even after he repeatedly asked for the same. He also represented for revocation of his suspension which was revoked on 22.9.2004. He was later told that the documents asked for were classified ones. The Inquiry Officer submitted his report on 24.2.05. This was communicated to the applicant on 11.3.2005. The Inquiry Officer found charge no.1 and 2 not proved and no.3 as proved. The applicant thereafter submitted an application to the respondent no.4. This was not considered and the disciplinary authority imposed major penalty of compulsory retirement by order dated 12.4.2005 which was summarily rejected on 1.9.2005. The applicant has filed an application before the Commissioner, respondent no.2.

2. It was submitted on the respondents' behalf that the Central Civil Service [Classification, Control and Appeal] Rules, 1965 is mutatis mutandis applicable to the employees of the Sangathan. The applicant was proceeded against pursuant to a major penalty charge sheet issued under Rule 14 of the CCS[CCA] Rules, 1965 for his misconduct and after conclusion of the departmental inquiry, the disciplinary authority has considered the findings of the report and imposed the penalty of compulsory retirement, against which an appeal was preferred which, after proper consideration, was rejected by the appellate authority. The order of his suspension preceded the charge-sheet

which was issued in contemplation of the disciplinary proceeding and thereafter within prescribed time, the charge-sheet was issued and the disciplinary proceeding was completed as per procedure. The documents asked for by the applicant were not listed evidence; copies of all the listed documents were supplied. The applicant has preferred an appeal before the Commissioner, KVS, he ought to have waited for its disposal.

3. The inquiry report of the Inquiry Officer has been perused. On the first article of charge, it was found by the Inquiry Officer that it could not be established whether Pappu Mistry and Sanjay are different persons or the same person. The charge related to the imputation that repair of furniture was carried out by Sanjay Mistry and Binod Mistry. On the second article, the Inquiry Officer held that for assessment of need of furniture and giving requisition, the officer was not responsible. Regarding the exorbitant rate of furniture, the Vidyalaya Executive Committee of which the Principal is a member is more responsible than any one else. The third article of charge regarding crossing the budget limit has been found to be proved against the applicant. As the Assistant Superintendent, he was part and parcel of the Committee which prepared the budget. No documentary proof was presented by him that he had informed the Principal regarding this. The article is evidently as serious one. On the point of supply of documents, it is mentioned with the memorandum of charges as follows:

"LIST OF DOCUMENTS BY WHICH THE ARTICLE OF CHARGE FRAMED AGAINST SHRI K.P. SINGH, ASST. SUPDT. [UNDER SUSPENSION] KV, No. 2, GAYA IS PROVED TO BE SUSTAINED."


1. Voucher No.46/VVN dated 20-12-2003 for Rs.1260.
2. Voucher No.01/SF, dated 01-04-03, Vr.No.52/SF, dated the April, 2006.22-07-03.
3. Vr No.112 for Rs.33,000/-[VVN] 2003-2004 & Vr.No.72 for Rs.52000/-[SF].
4. Extract of Cash balance of Rs.19743/- as on 01-04-04 of VVN Cash

Book.


5. Outstanding bill showing liabilities of Rs.6,73,464/-."

4. From the pleadings of the two sides and the materials on record, it is evident that the inquiry in the case was conducted as per procedure. The applicant was given the opportunity to place his case against the memorandum of charges served on him. His written statement of defence was duly considered in which he, inter alia, also sought change of Inquiry Officer. Departmental proceeding was thereafter duly conducted and a copy of the inquiry report was given to him for giving any representation or submission. The applicant's representation was examined and the order imposing the penalty of compulsory retirement was passed. Against the punishment, the applicant filed an appeal which was also considered and a detailed order was passed. Under the circumstances, the application does not justify any interference.

5. The application is, in the result dismissed. No order as to costs.


[S.N.P.N. Sinha]
Member[A]

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[Sadhana Srivastava]
Member[J]