

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.1017 of 1999

DATE OF ORDER: ^{gnw} 2 MARCH, 2001

BETWEEN:

T.Satyanarayana, s/o late T.Srinivasulu,
T.G.T.(Maths), Kendriya Vidyalaya,
Bowenpally, Secunderabad,
r/o 11-101/2, Telephone Colony,
Ramakrishnapuram, Hyderabad-500 035.

.. APPLICANT

AND

1. Kendriya Vidyalaya Sanghatan,
rep. by its Commissioner, 18,
Institutional Area, Shaheed Jeet
Singh Marg, New Delhi-110 016.
2. Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Regional office, Picket,
Secunderabad.
3. Principal, Kendriya Vidyalaya,
Bowenpally, Secunderabad-500 011.
4. Smt.T.Annapurna, Principal,
Kendriya Vidyalaya, Picket,
Secunderabad.
(R-4 impleaded as per Court Order
dated 19-1-2001 in MA.No.500/2000)

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.V.JOGAYYA SARMA

COUNSEL FOR THE RESPONDENTS: Mr.B.NARSIMHA SHARMA „

CORAM:

HON'BLE SHRI JUSTICE V.RAJAGOPALA REDDY, VICE CHAIRMAN

HON'BLE SRI M.V.NATARAJAN, MEMBER (ADMN.)

:JUDGEMENT:

ORDER(PER HON'BLE SHRI JUSTICE V.RAJAGOPALA REDDY, VICE
CHAIRMAN)

The applicant, a trained Graduate Teacher in
Mathematics at Kendriya Vidyalaya, Bowenpally,
Secunderabad, was alleged of sexual behaviour towards girl
students in the school. An inquiry was said to have been
held into the alleged misbehaviour, by Smt. Annapurna,

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Principal, Kendriya Vidyalaya, Picket. On her report, the Commissioner of Kendriya Vidyalaya Sangathan, New Delhi, the 1st respondent herein, holding that the applicant was guilty of moral turpitude involving exhibition of immoral sexual behaviour towards the girl students, terminated the services of the applicant with immediate effect, by the order dated 18.3.99. Though the applicant had submitted appeal against the above order, as no action was taken, he brought the present OA before the Tribunal for redressal against the penalty. The main ground of attack by the learned senior counsel for the applicant, Shri Jogayya Sarma, is that the impugned order is void ab-initio for want of an inquiry into the misconduct alleged against the applicant. It is urged that no punishment could be awarded without holding a fair inquiry into the misconduct alleged affording adequate opportunity to defend his innocence. It is argued that without even asking the applicant for his explanation to the allegations, he was penalised. It is further argued that the applicant was not even aware of the accusation against him. Hence it is contended that the proceedings are wholly arbitrary and are liable to be quashed being opposed to the principles of natural justice. The learned counsel submits that the applicant was suffering from intolerable itching which affects most parts of his body which might have given an impression on the students that he was expressing a desire for sexual urge

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which indeed was far from his mind.

2. The respondents 1 to 3 filed reply in which it was averred as under:-

"But on one day when the applicant noticed that one of his favourite victim, a girl of class VI was absent from the morning prayer assembly, the applicant went in search of her to the class room and the helpless girl seeing the teacher approaching her ran out of the class room and locked herself in a bathroom. Infuriated by this act of the student the applicant came to the assembly and complained about the absence of the girl in the assembly. This aroused the curiosity of the lady teachers who called all the students of classes VI & VII and inquired as to why they were so much afraid of the applicant. Then the students came out with horrifying tales of sexual harassment meted out to them by the applicant for the last two years.

The teachers then promptly took these complaints in writing from the students and submitted them to the Principal who is the head of the institution. The complaints being of serious nature involving moral turpitude, the Principal forwarded the

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same to the Assistant Commissioner, who is the head of the Region and also who is the disciplinary authority. The Assistant Commissioner deputed Smt. T. Annapurna Ramakrishna a senior lady Principal of Kendriya Vidyalaya, Picket to conduct a summary inquiry. During the inquiry, the inquiry officer questioned a number of boy and girl students of classes VI & VII in the presence of four senior lady teachers and one UDC of the Vidyalaya. In the end, she gave enough opportunity to the applicant to explain his conduct by asking him a variety of questions framed on the basis of complaints lodged by the students.

The inquiry report was forwarded to the Commissioner, Kendriya Vidyalaya Sangathan, New Delhi for information and necessary action."

3. After a perusal of the report, it was stated that the impugned order was passed by the Commissioner.

4. R-4, the Principal of the Vidyalaya, who was impleaded by her name at the instance of the applicant also filed her reply in which she stated that she was appointed as Inquiry Officer by the Assistant Commissioner to conduct

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the inquiry on certain allegations against the applicant. She conducted an inquiry by inquiring into the students in the presence of senior lady teachers and the applicant and the applicant was given full opportunity to explain his conduct. The entire proceedings conducted by her were duly recorded along with the statement of the applicant. She, therefore, denies the averment that the applicant was not given adequate opportunity to explain his conduct. The allegations that she was inimically disposed towards him and hence she made adverse report against him are denied.

5. The learned senior standing counsel appearing for the respondents, Shri B.N.Sarma, refutes the contentions raised by the learned counsel for the applicant and submits that the applicant was not removed on the ground that he had been indecently scratching his genital parts, but on the complaint made by the students against him of highly objectionable and immoral conduct and that an inquiry has been conducted by the Principal giving full opportunity to the applicant to explain his case. It is further argued that as a regular inquiry was not found expedient as the girl students might have to be exposed to cross examination on sensitive issues and that as it would affect their sensibility and also their future life and career, the Commissioner dispensed with the regular enquiry.

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6. We have given very careful and anxious consideration to the arguments advanced by the learned senior counsel for the applicant and the respondents. We have also perused the relevant records of inquiry that was held by R-4.

7. The main question that falls for our consideration in this case is whether the impugned order is bad for want of inquiry. It is not in controversy that before taking any disciplinary action against any employee of the Vidyalaya, an inquiry has to be conducted in accordance with the C.C.S (Classification, Control and Appeal) Rules as those rules were adopted by the Sanghtan mutatis mutandis. Admittedly, in this case no regular inquiry has been conducted as per the above rules, affording the applicant an opportunity to defend himself or to cross examine the witnesses. Such an inquiry has been dispensed with. The reason for dispensing with such an inquiry is contained in the impugned order itself and the operative portion reads as under:-

"AND WHEREAS, the inquiry into the alleged misbehaviour was conducted by Smt. Annapurna, Principal, Kendriya Vidyalaya, Picket.

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AND WHEREAS, the undersigned is satisfied that the procedure of holding regular inquiry for imposing a Major Penalty in accordance with Central Civil Services (Classification, Control and Appeal) Rules, 1965 as applicable to the employees of the Sangathan is not expedient in this case as it will cause serious embarrassment to the girl students. To hold such an inquiry is hence dispensed with. The evidence on record establishes that Shri T.Satyanarayana, T.G.T.(Maths) is prima facie guilty of moral turpitude involving exhibition of immoral sexual behaviour towards the girl student.

NOW, THEREFORE, I, H.H.Cairae, Commissioner, K.V.S. in exercise of powers under Article-81(b) of the Education Code for Kendriya Vidyalayas, hereby terminate the services of Shri T.Satyanarayana, T.G.T.(Maths), Kendriya Vidyalaya, Bowenpally with immediate effect."

8. On the written complaints of the girl students, the Principal of the Vidyalaya was appointed as an Inquiry Officer and she had conducted the inquiry in the presence of the students, lady teachers and the applicant and on the basis of the report submitted by the Principal, the impugned order was passed. As stated supra, a regular inquiry was found to be not expedient as it would harm the sensibilities of the girl students. In similar

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circumstances, the Supreme Court had an occasion to give certain guidelines as to what sort of an inquiry has to be held?, whether regular inquiry was expedient?. In "Avinash Nagra Vs. Navodaya Vidyalaya Samiti and others; 1997 (2) SCC 534", complaints were made by the girl students against sexual advances made by a Teacher. Thereupon, only a preliminary inquiry was conducted and in the said inquiry, the teacher's explanation was considered but found unacceptable. The disciplinary authority considered the report and found the said Teacher as not worthy for retention in service. The Supreme Court in such circumstances held,

"In our considered view, the Director has correctly taken the decision not to conduct any enquiry exposing the students and modesty of the girl and to terminate the service of the appellant.
 In the circumstances, it is very hazardous to expose the young girls to tardy process of cross-examination."

In the instant case also similar complaints have been made by the girl student against the applicant who was said to have been harassing them indecently for the last 2½ years. Some of the girls appeared to have been mortally afraid

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even to complain against his indecent conduct against them.

9. Since the learned senior counsel for the applicant seeks to make a distinction from the Avinash Nagra's case (supra), and contend that not even an explanation was asked for from the applicant as to the alleged misconduct against him and not even summary inquiry was held in this case, we have carefully perused the inquiry file. The Principal had made a thorough and patient inquiry into the allegations of the girl students. Several questions were put to the applicant as to his alleged indecent behaviour and elicited his answers. He was also permitted to make his own statement which forms part of the inquiry report. The inquiry was held in the presence of the Teachers, applicant and the students. It is also seen that the Principal has in no way concerned with the concerned Vidyalaya. She was the Principal of the Vidyalaya at Picket. She has been appointed by the Assistant Commissioner to conduct an inquiry into the matter. We are satisfied that a summary inquiry has been held giving adequate opportunity to the applicant to rebut the specific complaints made by the students against him. It cannot be said that the applicant was not even aware of the complaints of the girl students or that he was not asked his explanation. Repeated denials of the applicant in this regard in the application as well as in the

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rejoinder are of no avail. The contention of the learned counsel in this regard is baseless.

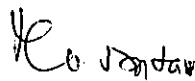
10. The case of the applicant that he was suffering from intolerable itching which might have given an impression that he was an indecent person, is of no consequence. It has to be remembered that the impugned order was passed on the ground of the specific complaints as regards his sexual advancements and harassment towards the girl students, which was found to be true in the enquiry.

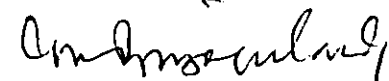
11. The contention of the learned counsel for the applicant^{is} that the punishment is harsh and severe, as the applicant served the Vidyalaya for about 23 years, happily married with unquestionable character.

12. It should be noted that as the Commissioner being the competent authority having taken the decision that the applicant was not fit person to be retained in service, it is not possible for us, in exercise of our judiciary review jurisdiction, to interfere with his decision.

13. We do not, therefore, find any warrant to interfere with the impugned order.

14. The OA fails and accordingly dismissed without costs.


(M.V. NATARAJAN)
MEMBER (ADMN.)


(V. RAJAGOPALA REDDY.J.)
VICE CHAIRMAN

DATED: 2 MARCH, 2001

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENGALURU BAD.

COPY TO:-

1. HCHNJ
2. HBSJP (JUDGE) MEMBER
3. HM.VN(ADMN) MEMBER
4. D.R. (ADMN)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

1ST AND II COURT

TYPED BY CHECKED BY
COMPARED BY APPROVED BY

THE HON'BLE MR. JUSTICE V. RAJA GOPALA
REDDY VICE-CHAIRMAN

THE HON'BLE MR. H.S. JAI PARAMESHWAR
MEMBER (JUDL)

THE HON'BLE MR. M.V. NATARAJAN
MEMBER (ADMN.)

DATE OF ORDER

2/3/2001

MA/RA/CP.No.

IN

OA.No. 1017/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED

C.P. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD.

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2. HBSJP (JUDGE) MEMBER
3. H.M.V.N (ADMN) MEMBER
4. D.R. (ADMN)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

1ST AND II. COURT

TYPED BY CHECKED BY
COMPARED BY APPROVED BY

THE HON'BLE MR. JUSTICE V. RAJA GOPALA
REDDY VICE- CHAIRMAN

THE HON'BLE MR. B. A. JAI PARAMESHWAR
MEMBER (JUDGE)

THE HON'BLE MR. M. V. NATARAJAN
MEMBER (ADMN)

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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
दस्तावेज / DESPATCH

- 9 MAR 2001

हैदराबाद बेंच
HYDERABAD BENCH