

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

DATE OF ORDER : 3/5/2002

OA 143/2002

R.K. Jatav son of Shri B.R. Jatav, TGT KV No. 2, Jhotwara, Jaipur aged 45 years, resident of Staff Quarters, K.V. No. 2, Jaipur.

....Applicant.

VERSUS

1. Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office -92, Gandhi Nagar Marg, Bajaj Nagar, Jaipur.
2. Vidyalaya Management Committeed, Sub Area Head Quarter, KV No. 2, Army Area, Jaipur through its Chairman.
3. Rajasthan Rajya Vidyut Vitran Nigam Limited through its Chairman, Jyoti Nagar, Jaipur.

Miss Shalini Sheoran, Counsel for the applicant.

Mr. V.S. Gurjar, counsel for the respondents.

CORAM

Hon'ble Mr. S.K. Agarwal, Member (Judicial)

Hon'ble Mr. H.O. Gupta, Member (Administrative)

ORDER

PER HON'BLE MR. S.K. AGARWAL, MEMBER (JUDICIAL)

In this OA filed u/s 19 of the Administrative

S.K.A.

Tribunal's Act, the applicant makes the following prayers:-

- (i) to quash and set aside the ex-parte order dated 7.7.2000 issued by the Principal, K.V. No. 2, Jaipur Cant, Jaipur.
- (ii) Order dated 15.12.2000 issued by Disciplinary Authority.
- (iii) Order of Appellate authority dated 1.3.2001 passed by Assistant Commissioner of KVS, Jaipur.
- (iv) to expunge the adverse entries in ACR communicated vide Memorandum dated 19.7.2001.
- (v) to direct the Rajasthan State Electricity Board to refund the amount of penalty recovered from the applicant with interest.
- (vi) Cost of the application.

2. The grounds of challenge by the applicant in this OA have been that these orders are issued without following the due process of law and in violation of principles of natural justice. It is also stated that these orders are not reasoned and speaking orders and applicant cannot be punished twice for the same charge. It is further stated that adverse entries made in the ACR and communicated vide Memorandum dated 19.7.2001 has no co-relation with the official duties of the applicant. It is stated that applicant has not committed any theft of electricity and whole basis of initiation of disciplinary proceedings against the applicant has been false and fake complaint of Rajasthan State Electricity Board (RSEB) to which RSEB had denied to make any such complaint. Therefore, such disciplinary proceedings should not have been initiated on such fake/false complaint. Hence this application.

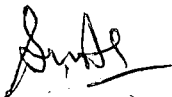
3. Reply has filed. It is stated in the reply that on surprise raid in the staff quarters of K.V. No. 2 on 31.5.2000, applicant was caught red handed and for the theft

*[Handwritten signature]*

of electricity, Rs. 1000/ were recovered from him as penalty. It is stated that minor penalty of withholding of one increment for one year was imposed by the Disciplinary Authority after resolution of Vidyalaya Executive Committee as per letter No. F. No. 2-16/87-KVS (Admn. I) dated 23.4.1999 issued by KVS. It is stated that applicant filed an appeal against the order of Disciplinary Authority dated 15.12.2000, which was rejected vide order dated 1.3.2001. It is also stated that appropriate entries were made in the ACR of the applicant and was communicated to the applicant vide Memorandum dated 19.7.2001. It is stated that involvement of the applicant in theft of electricity was seriously taken by the authorities. Therefore, action against the applicant is perfectly legal and valid and thus the applicant has no case for interference by this Tribunal.

Heard the learned counsel for the parties and also perused the whole record.

5. Admittedly no preliminary inquiry was ever conducted to find out as to whether applicant has committed any theft of electricity. The departmental proceedings were alleged to have been initiated upon the fake complaint made by RSEB to which RSEB has categorically denied. No charge sheet under Rule 16 of CCS(CCA) Rules 1965 was given to the applicant. It appears that respondents did not take notice of the fact that a sum of Rs. 1000/- has already been recovered from the applicant by way of penalty and thereafter RSEB did not like to proceed further. It also appears vide letter dated 7.7.2000, Principal K.V. No. 2, Jaipur Cantt, Jaipur had issued a warning to the applicant but the department has not taken any notice of this fact and inspite of this, the department has imposed minor penalty upon the applicant holding him guilty for the theft of electricity. It is also apparent that RSEB vide its letter dated 18.12.2000 (Annexure A/7) made it clear that there is no theft found. The extract of the letter is reproduced as under :-



"Presently as per checking, there is no theft found for your kind information and n/a. After payment of penalty there is no action is requested."


6. In view of above all, we are of the considered opinion that order dated 15.12.2000 of Disciplinary Authority imposing a minor penalty upon the applicant is bad in law and liable to be quashed. As order of Disciplinary Authority is not sustainable in law, Order of Appellate Authority dated 1.3.2001 is also to be quashed and set aside. In view of setting aside the above two orders, the adverse remarks as communicated to the applicant vide Memorandum dated 19.7.2001 cannot survive and the same is liable to be expunged.

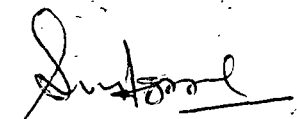
7. We, therefore, allow this OA and quash and set aside

- (i) letter dated 7.7.2000 issued by Principal, KV No. 2, Jaipur Cantt, Jaipur.
- (ii) Order dated 15.12.2000 issued by Disciplinary Authority.
- (iii) Order of Appellate Authority dated 1.3.2001 issued by Assistant Commissioner, KVS.
- (iv) Adverse entries communicated to the applicant vide Memorandum dated 19.7.2001 are hereby expunged as if no such entries are given to the applicant.

8. The applicant has also made a prayer to give direction to RSEB to refund the amount of penalty with interest, which cannot be given in the facts and circumstances of this case.

9. No order as to cost.

  
(H.O. GUPTA)  
MEMBER (A)

  
(S.K. AGARWAL)  
MEMBER (J)