

50/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO.

328/04 OF 199

Applicant(s) Sri Anil Kumar Shukla

Respondent(s) West Orissa

Advocate for Applicant(s) Mr. Adel Ahmed

Advocate for Respondent(s) KYS

Notes of the Registry	Date	Order of the Tribunal
This application is filed C.P. No. 156/2004 deposited vide P.P. No. 206/115441	21.12.2004	List on 20.1.2005 alongwith M.P. 156/2004.
Dated 26/10/04 Signature of Dy. Registrar 20/12/04	mb	<i>Adil Ahmed</i> Member (A)
steps taken:	20.1.05	List the matter alongwith M.P. No. 156 of 04 on 2.3.05.
Copy received MK Majumdar Advocate 22.12.04	lm	<i>K.V. Prahadan</i> Member
Notice & order with MP 156/04, Sent to D/Section for issuing to resp. Nos. 1 to 4 by regd. A/D post.	2.3.2005	Present: The Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman. The Hon'ble Mr. K.V. Prahadan, Member (A). List the matter on 4.3.2005 alongwith M.P. 156/2004.
<i>20/12/04</i>	bb	<i>Adil Ahmed</i> Member
		<i>Adil Ahmed</i> Vice-Chairman

Notes of the Registry	Date	Order of the Tribunal
3.9.05 Written Statement filed by the Respondent at page nos. 47 to 58 (Flag B')	4.3.2005 bb	List the matter on 28.3.2005 along with the M.P. 156/2004. K. Dinesh Member Vice-Chairman
Notice duly Served on 28.3. Nos - 223. 6/25/05	28.3.2005 bb	List on 5.4.2005 alongwith M.P. 156/04 K. Dinesh Member Vice-Chairman
5-5-05 w/15 la - seen 8/7/05	5.4.2005 mb	List on 11.4.2005 alongwith M.P. 156/2004. K. Dinesh Member Vice-Chairman
Wts have been filed. 30/7/05	11.4.2005 bb	List on 6.5.2005 along with the M.P. 156/2004. K. Dinesh Member Vice-Chairman
	6.5.05 pg	List on 7.6.05 for hearing alongwith M.P. 156/2004. K. Dinesh Member Vice-Chairman
	7.6.05 lm	List the matter on 5.7.05 alongwith M.P. No. 156 of 2004. K. Dinesh Member Vice-Chairman
	5.7.2005 mb	Post the O.A. for fix hearing on 20.7.2005. K. Dinesh Member Vice-Chairman

20.7.05

Heard Mr A.Ahmed, learned counsel for the applicant and MR M.K.Majumdar, learned counsel for the respondents. Hearing concluded. Judgment delivered in open Court. Kept in separate sheets.

The application is disposed of. No costs.

K. B. Patel
Member

V. V. Jagtap
Vice-Chairman

25.7.05
Copy of the order
has been sent
to the office for
issuing the same
to the L/Advocate
for the standing
counsel for K.R.S.
S.

nkm

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./R.A. No. 328 of 2004

DATE OF DECISION : 20.07.2005

Shri Anil Kumar Shukla

APPLICANT(S)

Mr. A. Ahmed

ADVOCATE(S) FOR
THE APPLICANT(S)

VERSUS -

Union of India & Ors.

RESPONDENT(S)

Mr M.K. Majumdar,
Standing Counsel, K.V.S.

ADVOCATE(S) FOR THE
RESPONDENT(S)

THE HON'BLE MR JUSTICE G. SIVARAJAN, VICE CHAIRMAN

THE HON'BLE MR K.V. PRAHLADAN, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman.

Shriji

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No.328 of 2004

Date of Order: This the 20th day of July 2005.

The Hon'ble Justice Shri G. Sivarajan, Vice-Chairman

The Hon'ble Shri K.V. Prahladan, Administrative Member

Shri Anil Kumar Shukla,
Primary Teacher,
Kendriya Vidyalaya,
C.R.P.F. Campus, Lerie Hill,
Kohima-797001, Nagaland.

.....Applicant

By Advocate Mr A. Ahmed.

- versus -

1. The Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Saheed Jeet Singh Marg,
New Delhi-110016.
2. The Joint Commissioner (Admn.),
Kendriya Vidyalaya Sangathan (Head Quarter),
18, Institutional Area,
Saheed Jeet Singh Marg, New Delhi-110016.
3. Shri Vijay Bhatnagar, Ex Principal,
Kendriya Vidyalaya, O.N.G.C.,
C/o Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Saheed Jeet Singh Marg, New Delhi-110016.
4. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Silchar Region, Hospital Road,
P.O. Silchar, District- Cachar,
Assam.Respondents

By Advocate Mr M.K. Majumdar, Standing Counsel, K.V.S.

ORDER (ORAL)

SIVARAJAN. J. (V.C.)

The applicant is a Primary School Teacher working under the respondents. He is aggrieved by the order dated 21.8.2001 (Annexure-J) issued by the respondent No.3 and the order dated 23.9.2002 (Annexure-L) issued by the respondent No.4. By the impugned orders a minor penalty of withholding of three grade increments without cumulative effect was passed by the respondent No.3 and the same was confirmed by the respondent No.4. The applicant is aggrieved. According to the applicant the respondent Nos.3 and 4 did not comply with the procedure provided under Rule 16 of CCS (CCA) Rules, 1965 and that the applicant was denied a reasonable opportunity of being heard by the Inquiry Officer and by the other respondents.

2. A written statement is filed on behalf of the respondents wherein the respondents sought to sustain the impugned orders.

3. We have heard Mr A. Ahmed, learned counsel for the applicant and Mr M.K. Majumdar, learned counsel for the respondents. Mr Ahmed submitted that the respondent No.3 had issued memorandum of charges dated 4.8.2001 (Annexure-D), but the necessary documents relied on therein were not enclosed. He submitted that the applicant requested for copies of the documents in his representation dated 10.8.2001 (Annexure-E), but the respondents did not furnish the documents. He also submitted that the respondents by communications dated 14.8.2001 (Annexure-F) and 18.8.2001 (Annexure-G) granted only three days time for inspection of the documents and that though the applicant was present before the

[Signature]

respondent No.3 the applicant was not allowed to inspect the documents. Counsel further submits that without any further enquiry the impugned order was passed. He also pointed out that the Appellate Authority has passed a cryptic order upholding the penalty order.

4. Mr M.K. Majumdar, learned counsel for the respondents, submits that though opportunity was afforded to the applicant to inspect the documents he did not turn up. Counsel further submits that the respondent No.3- Disciplinary Authority had considered all the circumstances and he had only imposed a minor penalty of withholding of three increments without cumulative effect. Counsel submits that even if there were technical lapses those were rectified by the Appellate Authority by affording personal hearing to the applicant. The counsel also submits that the penalty was imposed on the applicant only to maintain discipline in the school.

5. We have considered the rival submissions. It is necessary to refer to the relevant dates. The Charge Memo was issued only on 4.8.2001. Admittedly, the documents relied on by the respondents did not accompany the memorandum of charges and statement of imputations. The applicant had specifically requested in letter dated 10.8.2001 for supply of the documents. The respondents instead of furnishing the copies of the documents had only asked the applicant to inspect the documents. According to the applicant though he had approached the respondent No.3 on the date fixed, i.e. on 18.8.2001 he was not allowed to inspect the documents. We find that the respondent No.3 without any further information to the applicant has straight away passed the impugned order. This makes it clear that the procedural safeguards available to a delinquent official under Rule 16

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of the CCS (CCA) Rules has not been complied with. We expected that when the applicant has raised a serious objection to the Charge Memo in his appeal memo (Annexure-K) the Appellate Authority would have considered the matter with reference to the ground urged therein. Unfortunately, there is no reference to any of the grounds stated in the appeal memo and the impugned order is passed in a cryptic manner. We are totally dissatisfied in the way in which the respondent No.3 has acted in the case of a teacher working under them. Since the procedural safeguards- reasonable opportunity has not been provided with we set aside the impugned orders (Annexures- J & L) and direct the respondents to proceed with the enquiry, if they are so advised, after supplying relevant copies of the documents. If the documents sought for by the applicant cannot be supplied he must be allowed to peruse the relevant documents and to take out extracts therefrom to enable him to file his reply to the authority immediately.

6. The O.A. is disposed of as above. No costs.


(K. V. PRAHLADAN)
ADMINISTRATIVE MEMBER


(G. SIVARAJAN)
VICE-CHAIRMAN

nkm

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

20 DEC 2001

41/2001/2414/1
Guwahati Bench

(AN APPLICATION UNDER SECTION 19 OF THE CENTRAL
ADMINISTRATIVE TRIBUNAL ACT 1985)

ORIGINAL APPLICATION NO. 328 OF 2004.

BETWEEN

Shri Anil Kumar Shukla

...Applicant

-Versus-

The Commissioner Kendriya Vidyalaya
Samastha & others ... Respondents

LIST OF DATES AND SYNOPSIS:

Annexure-A is the photocopy of Office Order No.KVN/Per/A.K.Shukla/2000-01/4810-14 Dated 14-12-2000.

Annexure-B is the photocopy of Preliminary Inquiry Report submitted on 18-12-2000 by the Inquiry Officer.

Annexure-C is the photocopy of letter dated 19-12-2000 addressed to the Respondent No.4 by the parent of Syed Md.Marоof.

Annexure-D is the photocopy of Memorandum No.F.Per/A.K.Shukla/KVN/2001-02/4431 Dated 04-08-2001.

Annexure-E is the photocopy of the Representation dated 10-08-2001 filed before the Respondent No.3 by the Applicant.

Annexure-F is the photocopy Reference No.F.Per/A.K.Shukla/KVN/2001-02/4470 Dated 14-08-2001.

ASHOKA

Annexure-G is the photocopy of letter No.F.Per/A.K.Shukla/KVN/2001-02/P.B.219 Dated 18-08-2001.

Annexure-H is the photocopy of letter dated 18-08-2001.

Annexure- I is the photocopy of the application Dated 20-08-2001 filed by the Applicant before the Respondent No.3.

Annexure-J is the photocopy of Office Order No.F.Per/A.K.Shukla/KVN/2001-02/4486-89 Dated 21-08-2001.

Annexure-K is the photocopy of Appeal filed by the Applicant on 29-08-2001 before the Appellate Authority.

✓ Annexure-L is the photocopy of Order No.F.3-4/2002-KVS (SR) 11371-74 Dated 04/23-09-2002.

This application is directed against the impugned Office Order No. F.Per/A.K.Shukla/KVN/2001-02/4486-89 Dated 21-08-2001 issued by the Respondent No.3 withholding of 3 (three) Grade increment without commutative effect for three consecutive years dues in February 2002, February 2003 and February 2004 and also against the Appellate order No.F.3-4/2002-KVS (SR) 11371-74 Dated 04/23-09-2002 issued by the Respondent No.4.

RELIEF SOUGHT FOR:

That the Hon'ble Tribunal may be pleased to direct the Respondents to set aside and quash the impugned Office Order No. F.Per/A.K.Shukla/KVN/2001-02/4486-89 Dated 21-08-2001 issued by the Respondent No.3 withholding of 3 (three) Grade increment without commutative effect for three consecutive years dues in February 2002, February 2003 and February 2004 and also the Appellate order No.F.3-4/2002-KVS (SR) 11371-74 Dated 04/23-09-2002 issued by the Respondent No.4 against the Applicant may be set aside and quashed.

To Pass any other relief or relieves to which the Applicant may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.

To pay the cost of the application.

AShukla

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE CENTRAL
ADMINISTRATIVE TRIBUNAL ACT 1985)

ORIGINAL APPLICATION NO. OF 2004.

BETWEEN

Shri Anil Kumar Shukla,
Primary Teacher,
Kendriya Vidyalaya,
C.R.P.F. Campus, Lerie Hill,
Kohima, Nagaland,
Pin-797001.

... Applicant

-AND-

- 1) The Commissioner,
Kendriya Vidyalaya Sangathan, 18,
Institutional Area, Saheed Jeet Singh
Marg, New Delhi-110016.
- 2) The Joint Commissioner (Admn.),
Kendriya Vidyalaya Sangathan, (Head
Quarter) 18, Institutional Area, Saheed Jeet
Singh Marg, New Delhi-110016.
- 3) Shri Vijay Bhatnagar, Ex. Principal,
Kendriya Vidyalaya, O.N.G.C.,
C/o Commissioner, Kendriya Vidyalaya
Sangathan, 18, Institutional Area, Saheed
Jeet Singh Marg, New Delhi-110016.
- 4) The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,

filed by
Shri Anil Kumar Shukla
Applicant
through
J.S.L.,
Advocate
(Abil Admn.)

Anil Shukla

Silchar Region, Hospital Road,
P.O.-Silchar, District-Cachar (Assam).

... Respondents

1) DETAILS OF THE APPLICATION PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE:

This application is directed against the impugned Office Order No. F.Per/A.K.Shukla/KVN/2001-02/4486-89 Dated 21-08-2001 issued by the Respondent No.3 withholding of 3 (three) Grade increment without commutative effect for three consecutive years dues in February 2002, February 2003 and February 2004 and also against the Appellate order No.F.3-4/2002-KVS (SR) 11371-74 Dated 04/23-09-2002 issued by the Respondent No.4.

2) JURISDICTION OF THE TRIBUNAL:

The Applicant declares that the subject matter of the instant application is within the jurisdiction of the Hon'ble Tribunal.

3) LIMITATION:

The Applicant declares that the subject matter of the instant application is not within the limitation prescribed under Section 21 of the Administrative Tribunal Act 1985 and hence M.P.No. 156 of 2004 is filed under section 5 of Limitation Act 1963 for condonation of delay in filing the instant Original Application.

4) FACTS OF THE CASE:

Facts of the case in brief are given below:

4.1) That your humble Applicant is a citizen of India and as such he is entitled to all rights and privileges guaranteed under the Constitution of India.

4.2) That your Applicant begs to state that he is working as a Primary School Teacher of Kendriya Vidyalaya, C.R.P.F. Campus, Lerie Hill,

AShukla

Kohima, Nagaland. He had joined in Kendriya Vidyalaya as a Primary School Teacher on 01-11-1993.

4.3) That your Applicant begs to state that he has earlier served in Kendriya Vidyalaya, Tuli (Nagaland), Kendriya Vidyalaya, Nazira and Kendriya Vidyalaya, Satakha (Nagaland). During his posting at Nazira the Respondent No.3 issued an Office Order No.KVN/Per/A.K.Shukla/2000-01/4810-14 Dated 14-12-2000. It has been stated in the Order that the Applicant "Shri Anil Kumar Shukla, PRT is in habit of imposing coercive and corporal punishment amounting to physical torture to the students of class III and IV. On 12-12-2000 Shri Anil Kumar Shukla, PRT imposed corporal punishment to 4-5 students of class IV(A) implicating physical exertion of sitting and standing for more than 100 times resulting to which one student Master Debasis Biswas of class-IV (A) (of 9 years age) has been seriously suffering and was compelled to undergo medical treatment causing unavoidable inconvenience to the parents. His mother has reported today crying for seeking relief from the terror of the teacher. Now therefore Shri Y.N.Yadav, PGT (Hindi) is hereby appointed as Inquiry Officer to conduct preliminary inquiry taking necessary evidence. Shri A.N.Sharma, Headmaster will assist the Inquiry Officer. The inquiry report is to be submitted latest by 16-12-2000.

Annexure-A is the photocopy of Office Order No.KVN/Per/A.K.Shukla/2000-01/4810-14 Dated 14-12-2000.

4.4) That your Applicant begs to state that, before issuing the Office Order Dated 14-12-2000 by the Respondent No.3, no show cause notice was served to the Applicant regarding the so called allegation brought against the Applicant. The Inquiry Officer submitted his Preliminary Inquiry Report on 18-12-2000. In the said Preliminary Report in conclusion it has been stated "Since Shri Anil Kumar Shukla, PRT is found guilty of deliberately imposing severe corporal punishment resulting into temporary physical disability in students of class-IV (A), a stern punitive action against such teacher is recommended". It is worth to mention here that the parent of Syed Md. Maroof, a student of Class-IV (A) had complained before the Respondent No.4 on 19-12-2000 stating that he was forcefully compelled to copy down a written statement

drafted by Y.N.Yadav, PGT (Inquiry Officer). The written statement related to corporal punishment given to his son Syed Md. Maroof by Mr.A.K.Shukla, PRT, Nazira. This written statement is a vague one and there is nothing of such a matter in relation with corporal punishment.

Annexure-B is the photocopy of Preliminary Inquiry Report submitted on 18-12-2000 by the Inquiry Officer.

Annexure-C is the photocopy of letter dated 19-12-2000 addressed to the Respondent No.4 by the parent of Syed Md.Maroof.

4.5) That your Applicant begs to state that the Respondent No.3 vide his Memorandum No.F.Per/A.K.Shukla/KVN/2001-02/4431 Dated 04-08-2001 proposed to take action against the Applicant under Rule 16 of CCS (CCA) Rules 1965. Article of 2(two) charges brought against the Applicant. In the Article No.1 it has been stated that "Shri Anil Kumar Shukla, while functioning as Primary Teacher at K.V.ONGC Nazira has imposed severe corporal punishment to some students of class-IV (A) on 12-12-2000, resulting to which one student Master Debasis Biswas was hospitalized and some parents lodged written complaints against the said Shri Anil Kumar Shukla, PRT. This brutal act of the said Shri Anil Kumar Shukla is deliberately violation of the standing orders of KVS (HQ) New Delhi and the judgment of Hon'ble Supreme Court of India". In the Article No.2 it has been stated that " Shri Anil Kumar Shukla, while functioning as PRT at K.V.ONGC Nazira has been writing his own derogatory remarks and undesirable comments in the Vidyalaya Order-book/peon book as detailed below: -

- (a) On dated 03-11-2000 – In the Order book circulated by the Principal.
- (b) On dated 14-12-2000 - In the Vidyalaya Peon-book.
- (c) On dated 23-01-2001 – In the Supervision Diary maintained by the Head Master.
- (d) On dated 07-07-2001 – In the Order book circulated by the Principal.
- (e) On dated 23-07-2001 – In the Order book circulated by the Head Master.

(f) On dated 01-08-2001 – In the Order book circulated by the Head Master”.

Annexure-D is the photocopy of Memorandum No.F.Per/A.K.Shukla/KVN/2001-02/4431 Dated 04-08-2001.

4.6) That your Applicant begs to state that on 10-08-2001 he filed a Representation before the Respondent No.3 denying the all charges made in Article 1 and 2 respectively and also requested him to supply the documents relating to his complains and other listed documents as per Annexure-1. The Respondent No.3 vide his Reference No.F.Per/A.K.Shukla/KVN/2001-02/4470 Dated 14-08-2001 granted the permission to the Applicant to inspect the relevant documents in presence of Shri Y.N.Yadav, PGT Hindi, Shri A.N.Shrma Head Master and Shri S.Ahmed UDC of this Vidyalaya in the Vidyalaya Office, in between 13:40 Hrs to 16:30 Hrs, either on 16-08-2001 or on 17-08-2001.

Again The Respondent No.3 vide his letter No.F.Per/A.K.Shukla/KVN/2001-02/P.B.219 Dated 18-08-2001 directed the Applicant to inspect the ✓ relevant documents between 13:40 Hrs to 16:30 Hrs on 18-08-2001 in the Vidyalaya Office. Accordingly your Applicant came to the Vidyalaya Office on 18-08-2001 but nobody was there to provide him the relevant documents for inspection. So on 18-08-2001 at 14:40 Hrs he submitted an application to the Principal about the facts of non-inspection of relevant documents. Your Applicant vide his application dated 20-08-2001 complained before the Respondent No.3 that he was denied from inspection of relevant documents as such he could not file his proper and effective Representation in his defence. He also prayed to supply the listed and relevant documents to him and to grant him time to file his Representation in his defence. But surprisingly without hearing the Applicant and also without going through proper procedure of inquiry the Respondent No.3 vide his Order No.F.Per/A.K.Shukla/KVN/2001-02/4486-89 Dated 21-08-2001 imposed a minor penalty to the Applicant under Rule 11 (iv) of CCS (CCA) Rules of WITH HOLDING OF THREE GRADE INCREMENT WITHOUT COMMUTATIVE EFFECT on the said Shri Anil Kumar Shukla, PRT with immediate effect and the implication of the penalty will come into force for withholding the future increments for three consecutive years dues in February 2002, ~~and~~ February 2003 & February 2004.

Shukla

Annexure-E is the photocopy of the Representation dated 10-08-2001 filed before the Respondent No.3 by the Applicant.

Annexure-F is the photocopy Reference No.F.Per/A.K.Shukla/KVN/2001-02/4470 Dated 14-08-2001.

Annexure-G is the photocopy of letter No.F.Per/A.K.Shukla/KVN/2001-02/P.B.219 Dated 18-08-2001.

Annexure-H is the photocopy of letter dated 18-08-2001.

Annexure- I is the photocopy of the application Dated 20-08-2001 filed by the Applicant before the Respondent No.3.

Annexure-J is the photocopy of Office Order No.F.Per/A.K.Shukla/KVN/2001-02/4486-89 Dated 21-08-2001.

4.7) That your Applicant begs to state that in spite of his application dated 20-08-2001 requesting the Respondent No.3 to supply the relevant documents including Preliminary Report with all annexure, the Respondent No.3 pass an Ex-parte Order against the Applicant on the very next day i.e. on 21-08-2001 by violating all the norms and procedures to be maintain by the Disciplinary Authority in case of holding inquiry against the charge official.

4.8) That your Applicant begs to state that he filed an Appeal before the Appellate Authority on 29-08-2001 i.e. the Respondent No.2 under Rule 23 of CCS (CCA) Rules 1965 read with para-6 of the Appendix XIX of Education Code for Kendriya Vidyalayas. But the Respondent No.4 i.e. the Assistant Commissioner vide his Order No.F.3-4/2002-KVS (SR) 11371-74 Dated 04-23-09-2002 rejected the said Appeal and the Applicant received the Rejection Order on 04-10-2002. As such finding no other alternative your Applicant has been compelled to approach this Hon'ble Tribunal for seeking justice in this matter.

Annexure-K is the photocopy of Appeal filed by the Applicant on 29-08-2001 before the Appellate Authority.

Shukla

Annexure-L is the photocopy of Order No.F.3-4/2002-KVS (SR)
11371-74 Dated 04-23-09-2002.

4.9) That your Applicant begs to state that the Appellate Order which was passed by the Respondent No.4 is a mechanical order and also without going through the facts, documents and records of the case.

4.10) That your Applicant begs to state that the Respondents particularly the Respondent No.3 has passed the impugned order dated 21-08-2001 in a very casual and careless manner only to victimize the Applicant for his personal grudge. It is to be stated that earlier also your Applicant has approached this Hon'ble Tribunal by filing Original Application No.121 of 2001 against the impugned order of Dies-Non passed by the same Respondent No.3 i.e. Shri Vijay Bhatnagar, Principal, KVS, ONGC, Nazira. The Hon'ble Tribunal set aside and quashed the impugned orders of Dies-Non issued by the Respondent No.3 i.e. Shri Vijay Bhatnagar, Principal, KVS, ONGC, Nazira against the Applicant. As such the Respondent No.3 have deliberately and willfully passed the impugned order dated 21-08-2001 only to malign the career of the Applicant.

4.11) That your Applicant begs to state that action of the Respondents are illegal, arbitrary, malafide and also not sustainable before the eye of law as well as in facts. As such the impugned order dated 21-08-2001 passed by the Respondent No.3 and also the Appellate Order dated 04/23-09-2002 passed by the Respondent No.4 are liable to be set aside and quashed.

4.12) That your Applicant submits that he has got reason to believe that the Respondents are resorting the colorable exercise of power.

4.13) That your Applicant submits that the action of the Respondents is in violation of the fundamental rights guaranteed under the constitution of India and also in violation of principles of natural justice.

4.14) That your Applicant submits that the action of the Respondents by which the Applicant has been deprived of his legitimate Rights, is

arbitrary. It is further stated that the Respondents have acted with a mala-fide intention only to deprive the Applicant from his legitimate right.

4.15) That your Applicant submit that the Respondents have deliberately done serious injustice and put him into great mental trouble and financial hardship to his entire poor family including his children by withholding the future increment of the Applicant for three consecutive years dues in February 2002, February 2003 and February 2004 and as such the impugned orders are liable to be set aside and quashed.

4.16) That your Applicant submits that the action of the Respondents is highly illegal, improper, whimsical and arbitrary.

4.17) That in the facts and circumstances stated above, it is fit Case for the Hon'ble Tribunal to interfere with to protect the rights and interests of the Applicant.

4.18) That this application is filed bona fide and for the interest of justice.

5) GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1) For that, due to the above reasons narrated in detail the action of the Respondents is in *prima facie* illegal, mala fide, arbitrary and without jurisdiction. Hence the impugned Office Order No. F.Per/A.K.Shukla/KVN/2001-02/4486-89 Dated 21-08-2001 issued by the Respondent No.3 withholding of 3 (three) Grade increment without commutative effect and also the Appellate order No.F.3-4/2002-KVS (SR) 11371-74 Dated 04/23-09-2002 issued by the Respondent No.4 against the Applicant may be set aside and quashed.

5.2) For that, the Respondents have passed the impugned order against the Applicant by adopting backdoor tactic and also without giving him any opportunity to defend him. Hence the impugned Office Order No. F.Per/A.K.Shukla/KVN/2001-02/4486-89 Dated 21-08-2001 issued by the Respondent No.3 withholding of 3 (three) Grade increment without commutative effect and also the Appellate order No.F.3-4/2002-

KVS (SR) 11371-74 Dated 04/23-09-2002 issued by the Respondent No.4 against the Applicant may be set aside and quashed.

5.3) For that, due to unknown reasons the Respondents did not supplied the relevant documents to the Applicant to verify the alleged documents. Hence the impugned Office Order No. F.Per/A.K.Shukla/KVN/2001-02/4486-89 Dated 21-08-2001 issued by the Respondent No.3 withholding of 3 (three) Grade increment without commutative effect and also the Appellate order No.F.3-4/2002-KVS (SR) 11371-74 Dated 04/23-09-2002 issued by the Respondent No.4 against the Applicant may be set aside and quashed.

5.4) For that, the Respondents passed an Ex-parte order against the Applicant without conducting proper inquiry. Hence the impugned Office Order No. F.Per/A.K.Shukla/KVN/2001-02/4486-89 Dated 21-08-2001 issued by the Respondent No.3 withholding of 3 (three) Grade increment without commutative effect and also the Appellate order No.F.3-4/2002-KVS (SR) 11371-74 Dated 04/23-09-2002 issued by the Respondent No.4 against the Applicant may be set aside and quashed.

5.5) For that, the Disciplinary Authority without applying their mind passed an impugned order on the very next day when the Applicant requested the Authority concerned to supply the relevant documents. Hence the impugned Office Order No. F.Per/A.K.Shukla/KVN/2001-02/4486-89 Dated 21-08-2001 issued by the Respondent No.3 withholding of 3 (three) Grade increment without commutative effect and also the Appellate order No.F.3-4/2002-KVS (SR) 11371-74 Dated 04/23-09-2002 issued by the Respondent No.4 against the Applicant may be set aside and quashed.

5.6) For that, the Respondents particularly the Respondent No.3 on personal grudge passed the impugned order by throwing all the norms and procedures to be maintain by a Disciplinary Authority. Hence the impugned Office Order No. F.Per/A.K.Shukla/KVN/2001-02/4486-89 Dated 21-08-2001 issued by the Respondent No.3 withholding of 3 (three) Grade increment without commutative effect and also the Appellate order No.F.3-4/2002-KVS (SR) 11371-74 Dated 04/23-09-

2002 issued by the Respondent No.4 against the Applicant may be set aside and quashed.

5.7) For that, earlier also the same Respondent No.3 has passed the Order of Dies-Non against the Applicant without following any procedure on personal grudge and which was set aside by this Hon'ble Tribunal. Hence the impugned Office Order No. F.Per/A.K.Shukla/KVN/2001-02/4486-89 Dated 21-08-2001 issued by the Respondent No.3 withholding of 3 (three) Grade increment without commutative effect and also the Appellate order No.F.3-4/2002-KVS (SR) 11371-74 Dated 04/23-09-2002 issued by the Respondent No.4 against the Applicant may be set aside and quashed.

5.8) For that, the Respondents have totally violated the principle of Natural Justice in the instant case. Hence the impugned Office Order No. F.Per/A.K.Shukla/KVN/2001-02/4486-89 Dated 21-08-2001 issued by the Respondent No.3 withholding of 3 (three) Grade increment without commutative effect and also the Appellate order No.F.3-4/2002-KVS (SR) 11371-74 Dated 04/23-09-2002 issued by the Respondent No.4 against the Applicant may be set aside and quashed.

5.9) For that, the Respondents have violated the Article 14,16 & 21 of the Constitution of India. Hence the impugned Office Order No. F.Per/A.K.Shukla/KVN/2001-02/4486-89 Dated 21-08-2001 issued by the Respondent No.3 withholding of 3 (three) Grade increment without commutative effect and also the Appellate order No.F.3-4/2002-KVS (SR) 11371-74 Dated 04/23-09-2002 issued by the Respondent No.4 against the Applicant may be set aside and quashed.

5.10) For that, the action of the Respondents is arbitrary, mala-fide and discriminatory with an ill motive.

5.11) For that, in any view of the matter the action of the Respondents are not sustainable in the eye of law as well as fact.

The Applicant craves leave of this Hon'ble Tribunal advance further grounds the time of hearing of this instant application.

6) DETAILS OF REMEDIES EXHAUSTED:

That there is no other alternative and efficacious and remedy available to the applicant except the invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

7) MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:

That the Applicant further declares that he has not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other court, authority, nor any such application, writ petition or suit is pending before any of them.

8) RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the Applicant most respectfully prayed that Your Lordship may be pleased to admit this application, call for the records of the case, issue notices to the Respondents as to why the relief and relieves sought for the Applicant may not be granted and after hearing the parties may be pleased to direct the Respondents to give the following relieves.

8.1) That the Hon'ble Tribunal may be pleased to direct the Respondents to set aside and quash the impugned Office Order No. F.Per/A.K.Shukla/KVN/2001-02/4486-89 Dated 21-08-2001 issued by the Respondent No.3 withholding of 3 (three) Grade increment without commutative effect for three consecutive years dues in February 2002, February 2003 and February 2004 and also the Appellate order No.F.3-4/2002-KVS (SR) 11371-74 Dated 04/23-09-2002 issued by the Respondent No.4 against the Applicant may be set aside and quashed..

8.2) To Pass any other relief or relieves to which the Applicant may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.

8.3) To pay the cost of the application.

9) INTERIM ORDER PRAYED FOR:

At this stage the Applicant prays no interim order.

10) Application is filed through Advocate.

11) Particulars of I.P.O.:

I.P.O. No. 20 G 115441

Date of Issue 26/10/04

Issued from

Payable at

12) LIST OF ENCLOSURES:

As stated above.

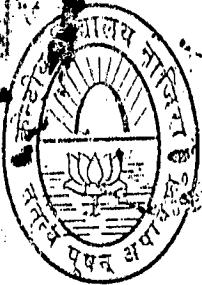
Verification

VERIFICATION-

I, Shri Anil Kumar Shukla, Primary Teacher, Kendriya Vidyalaya, C.R.P.F. Campus, Lerie Hill, Kohima, Nagaland, Pin-797001 do hereby solemnly verify that the statements made in paragraph nos. 4.1, 4.2, 4.7, 4.9, 4.10, 4.11 are true to my knowledge, those made in paragraph nos. 4.3, 4.4, 4.5, 4.6, 4.8, are being matters of records are true to my information derived there from which I believe to be true and those made in paragraph 5 are true to my legal advice and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 18th day of December ²⁰⁰⁴ at Guwahati.

Anil Kumar Shukla



KENDRIYA VIDYALAYA

ONGC Nazira, Dist-Sibsagar

केन्द्रीय विद्यालय

052232 (D.O.T.)
21041 (ONGC)

ओ एन जी सी, नाजिरा, जिला-शिवसागर - 785685 (आसाम)

Ref. No.KVN/Per/A. K. Shukla/2000-01/ 1810-11

Date. 14.12.2000

OFFICE ORDER

It has been reported to the undersigned by some of the parents that Sri Anil Kumar Shukla, PRT is in habit of imposing coercive and corporal punishment amounting to physical torture to the students of class III and IV.

On 12.12.2000 Sri Anil Kumar Shukla, PRT imposed corporal punishment to 4-5 students of class-IV(A) implicating physical exertion of sitting and standing for more than 100 times resulting to which one student Master Debasis Biswas of class-IV(A) (of 9 years ago) has been seriously suffering and was compelled to undergo medical treatment causing unavoidable inconvenience to the parents. His mother has reported today crying for seeking relief from the terror of the teacher.

Now therefore Sri Y.N.Yadav, PGT(Hindi) is hereby appointed as Inquiry Officer to conduct preliminary inquiry taking necessary evidences. Sri A.N.Sharma, Headmaster will assist the Inquiry Officer. The inquiry report is to be submitted latest by 16.12.2000.

(Vijay Bhatnagar)
Principal

Ends: copy of the prescritim slip.

Copy to :-

1. The Chairman, V.M.C. K.V.ONGC Nazira.
2. The Asstt. Commissioner, KVS(SR).
3. Sri Y.N. Yadav, PGT(Hindi), K.V.ONGC Nazira.
4. Sri A.N. Sharma, Headmaster, K.V.ONGC Nazira.
5. Sri Anil Kumar Shukla, PRT, K.V.ONGC Nazira.
6. Personnel M.L.

Attent
JL
Ans. T

REPORT ON PRELIMINARY INQUIRY

Text of Inquiry is vide office order No. KVH/Par/A.K. Shukla/2000-01/4810-14 dated 14.12.2000 I, Sri Y.N.Yadav, PGT(Hin), have been appointed as Inquiry Officer alongwith Sri A.N.Sharma, Headmaster as an assistant regarding infliction of corporal punishment to the students of class-IV(A) by Sri Anil Kumar Shukla, PRT, K.V.ONGC Nazira on 12.12.2000 in 6th period.

PROCEEDING OF THE INQUIRY

Myself as an Inquiry Officer and Shri A.N.Sharma, Headmaster started taking evidences and statements of the students/guardians in the following sequence :-

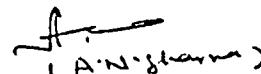
1. The mother of Master Debashish Biswas of class-IV(A) came to school to lodge a complaint against Sri Anil Kumar Shukla, PRT about imposing physical punishment to her son on 12.12.2000 by asking him for sit sit-ups for more than 100 times. She stated that her son Debashish Biswas reaching home started crying due to severe unbearable pain in both the legs. Having been asked the reason about the pain Debashish revealed that Sri Anil Kumar Shukla, PRT in 6th period during teaching maths ordered him to sit & stand up for over hundred times as a result of which the child was unable to walk nor stand steadily. Immediately the mother took him to the nearest Dispensary at Goleky. The Medical Officer prescribed some medicines and advised to consult the Physician at ONGC Hospital, Nazira. On 14th December Master Debashish was brought to ONGC hospital, Nazira and was given proper treatment after thorough examination.

The mother of Debashish was crying literally as her son was not able to stand properly, sit comfortably & walk steadily. Subsequently father of Debashish, Shri P.K.Biswas, Head Constable C.I.S.F. lodged a written complaint dated 14.12.2000 of the incident. The written statement and prescription slip are marked as annexure 1 to 3.

2. Dr. S.J.Winston, Dy. Supdt. Engineer, ONGC, Nazira came to school on 14.12.2000 and submitted a complaint that his son S. Wilson Premod of class IV(A) was given severe physical punishment on 12th December, 2k by asking to make sit-ups for 15 minutes for just making a sum wrong in maths. The father asserted that the punishment imposed was "too high for a child of such tender age". The written statement is enclosed and marked as annexure 4.

3. Some students of class IV (A) were asked about the incident and they had submitted their written statements confirming the imposition of severe physical punishment whereby Master Shiladitya Bagchi (IV-A) has submitted that he did not come on 11.12.2000, therefore he could not bring his home work on 12.12.2000. Despite this he was asked to make sit-up for 100 times and till today he is having pain in his legs. The statement is marked as annexure 5.

Yadav
(Y.N.Yadav)


(A.N.Sharma)

cont...page/2

Aftab
Ch
Anuradha

Master S. Wilson Premod of IV(A) also submitted that he was also asked to make sit-ups for 100 times and having pain till today. The statement is marked as Annexure 6.

Miss Pallavi Bhuyan and Miss Anuradha Baruah, the class monitors of class IV(A) have confirmed the imposition of corporal punishment. Even they reiterated that the similar punishment was given to Syed Md. Maruf on 14.12.2000. The written statements are marked as Annexure 7 and 8.

4. Master Syed Md. Maruf was asked about the incident and he also submitted his written statement confirming the physical punishment awarded to him by Sri Anil Kumar Shukla, PHT by asking him to make sit-ups for 100 times. Written statement is marked as Annexure 9.

5. Sri Anil Kumar Shukla, PGT was called on 16.12.2000 in the room of the Headmaster and was asked about the incident. Initially he refused to give anything in writing and asked for seven days time. The gravity of the situation was explained to him and thereafter he has given his written statement accepting of imposing corporal punishment i.e. sit-ups for five or ten times. When he was told about the written complaints and documentary evidences of imposing physical punishment of sit-ups for more than hundred times, then he said that all are telling lie. The written statement is marked as annexure 10.

FINDINGS OF THE INQUIRY :

After going through all the written and verbal statements of the students and guardians and having seen the condition of the students personally it has been established that Sri Anil Kumar Shukla, PRT has severally punished the students by asking them to make sit-ups for more than 100 times. Two students were complaining about the pain in their leg thighs and legs even after two days of imposing the punishment, whereas Master Debashish Biswas is about on leave till today i.e. 18.12.2000.

The condition of the parents and that of the victims were very pathetic and the incident has created a panic among the students as well as parents. Moreover, this incident has brought a bad name for the school as the Doctors and patients waiting in the hospital started talking adverse about the school and the incident.

OPINION OF THE INQUIRY OFFICER

During last one year the vidyalaya has build up its prestigious image in the society due to various innovative approaches and academic pursuits. The community of ONGC and the civilians have reposed faith in the teaching learning process of the vidyalaya in comparision to Delhi Public School Nazira. At such a stage, the incident of corporal punishment will certainly damage of the vidyalaya. Although several departmental circulars and recent decisions of Honourable High Court, Delhi are in the knowledge of the teachers, the imposition of physical punishment to the young children of such a tender age amounts to be very offensive and condemnable.

• (1949) 11
• 1949-1950


P. N. Sharma

cont....page/3

After test
↓
↓ Salvage

CONCLUSION :

Since Sri Anil Kumar Shukla, P.R.T is found guilty of deliberately imposing severe corporal punishment resulting into temporary physical disability in students of class-IV(A), a stern punitive action against such teacher is recommended.

(A.N.Sharma)
Headmaster
K.V.ONGC Nazira

Dt. 18.12.2k

(Y.H.Yadav)
PGT(Hindi)
K.V.ONGC Nazira
&
Inquiry Officer

The Report of preliminary inquiry along with all documentary evidences is being submitted to the Chairman S.I.C. with the remarks that the undersigned fully agrees with the opinion and conclusion established by the Inquiry Officer. Therefore, the undersigned being the Disciplinary / Controlling Authority recommends necessary disciplinary action against the delinquent teacher viz: Sri Anil Kumar Shukla, P.R.T.

Dt. 18/12/2003

(VIKAS BHAMBHIR)
PRINCIPAL

Attest
Attest

The Assistant Commissioner,

K. V. S. R/o. Silchar.

Sub:- Statement (written) taken under forceful compulsion from my ward.

Sir, Respectfully I would like to state that my ward named Syed Md. Maroof reading in class IV A in K.V. Nazira was forcefully compelled to copy down a written statement drafted by Mr. Y. N. Yadav (P.GT). The written statement related to corporal punishment given to him by Mr. A.K. Shukla, PGT Nazira. This written statement is a vague one and there is nothing of such a matter in relation with the corporal punishment. It is just a written statement taken to torture Mr. Shukla mentally and put him in unnecessary harassment. It is also stated that such a vague matter crops up in a prestigious institution and admit our wards for better education. A student learns morality in a school and nourishes it in his future days. It is a matter of great apprehension to the guardian as well as the teacher.

It is hereby sent an information through this statement from my side so that the institution work on the solid moral ground and no ward be compelled to give written statement against a teacher and morality be gaarded.

Sincerely yours,
Makhdoom

NAZIRA S

19/12/2K

* (Seda Masedakhan (Syed Md. Makhdoom)
M/o Syed Md. Makhdoom. F/o Syed Md. Maroof.

After
H. T. M.

- 21 -

ANNEXURE - D

KENDRIYA VIDYALAYA, ONGC, NAZIRA

केन्द्रीय विद्यालय, ओ.एन.जी.सी. नाजिरा

P.O. Nazira, Distt. Sivasagar (Assam) Pin- 785685

Phone 52232
EPABX 21041(O)
22041(R)

No.F.Per/A.K.Shukla/KVN/2001-02/4431

Date :- 04-8-2001

MEMORANDUM

Shri Anil Kumar Shukla (Designation) Primary Teacher (Office in which working) Kendriya Vidyalaya, ONGC Nazira, is hereby informed that it is proposed to take action against him under Rule 16 of CCS (CCA) Rules, 1965. A statement of the imputations of misconduct or misbehaviour on which action is proposed to be taken as mentioned above is enclosed.

2. Shri Anil Kumar Shukla is hereby given an opportunity to make such representation as he may wish to make against the proposal.

3. If Shri Anil Kumar Shukla fails to submit his representation within 10(Ten) days of the receipt of this Memorandum, it will be presumed that he has no representation to make and orders will be liable to be passed against Shri Anil Kumar Shukla ex parte.

4. The receipt of the Memorandum should be acknowledged by Shri Anil Kumar Shukla.

Enclosed - One



(VIJAY BHATNAGAR)

Principal,
Kendriya Vidyalaya Nazira,
Kendriya Vidyalaya
Nazira

To,

Shri Anil Kumar Shukla,
Primary Teacher,
K.V. ONGC Nazira.

(After 10 AM)
10 AM
Answer

KENDRIYA VIDYALAYA, ONGC, NAZIRA

केन्द्रीय विद्यालय ओ.एन.जी. सी. नाजिरा

P.O. Nazira, Distt. Sivasagar (Assam) Pin- 785685

Phone 52232
EPABX 21041(O)
22041(R)

ANNEXURE - 1

Statement of imputations of misconduct or misbehaviour on which action is proposed to be taken against Shri Anil Kumar Shukla, Primary teacher, K.V.ONGC Nazira being enclosed alongwith the Memorandum No.F.Per/A.K.Shukla/KVN/2001-02/4431 dated 04.8.2001.

Article - 1. That the said Shri Anil Kumar Shukla, while functioning as Primary teacher at K.V.ONGC Nazira has imposed severe corporal punishment to some students of class-IV(A) on 12.12.2000, resulting to which one student Master Debasish Biswas was hospitalized and some parents lodged written complaints against the said Shri Anil Kumar Shukla, PRT. This brutal act of the said Shri Anil Kumar Shukla is deliberate violation of the standing orders of KVS(HQ) New Delhi and the judgement of Hon'ble Supreme Court of India.

Article - 2. That the said Shri Anil Kumar Shukla, while functioning as PRT at K.V. ONGC Nazira has been writing his own derogatory remarks and undesirable comments in the Vidyalaya Order-book/peon book as detailed below:-

- (a) On dated 03.11.2000 - In the Order book circulated by the Principal.
- (b) On dated 14.12.2000 - In the Vidyalaya Peon-book.
- (c) On dated 23.01.2001 - In the supervision Diary maintained by the Head Master.
- (d) On dated 07.07.2001 - In the Order book circulated by the Principal.
- (e) On dated 23.07.2001 - In the Order book circulated by the Head Master.
- (f) On dated 01.08.2001 - In the Order book circulated by the Head Master.



(VIJAY BHATNAGAR)

Principal, Principal,
Kendriya Vidyalaya Nazira
District.

(Signature)
Anil Kumar Shukla

To

The Principal,
K.V., ONGCL,
Nazira (Assam).

Date: 10.08.2001

Subject: - Representation in connection with your
Memorandum No. F.Per/A.K.Shukla/KVN/2001-02/
4431 dated 04.08.2001.

Reference: - Your Memorandum No. F.Per/A.K.Shukla/KVN/
2001-02/4431 dated 04.08.2001.

Sir,

Most respectfully and humbly the applicant
states before your goodself as follows : -

- 1) That Memorandum dated 4.08.2001 has been served
upon the applicant wherein para-2 the applicant had been
given an opportunity to make a representation against the
articles of charges.
- 2) That in para-3 of the said Memorandum dated
4.08.2001 the applicant has been given 10 (ten) days
time from the date of receipt of the said Memorandum
to make a representation against the said proposal under
Rule 16 of CCS (CCA) Rules 1965.
- 3) That the applicant humbly states that neither
the copies of the complaints, standing orders of KVS(HB)
New Delhi, the judgement of Hon'ble Supreme Court of
India, other listed documents as per Annexure-I of the
said Memorandum has been supplied nor annexed with the
said Memorandum and as such your humble applicant is
prevented to file a proper and effective representation
in his defence.
- 4) That the applicant humbly submits and states
that as an abundant caution he hereby categorically
denies all the allegations levelled against him in
Article 1 and 2 respectively.

Therefore it is humbly prayed that
your goodself would be pleased to supply
the copies of the documents to be
relied upon to prove the said allega-
tions mentioned in Article 1 and 2

(A) Annexure
(B)

Contd. 2.

- 2 :-

respectively of the said memorandum dated 4.8.2001

And

further, it is also prayed that your goodself would be pleased to grant 60 (Sixty) days time from the date of receipt of the documents as referred to above to the applicant to submit a proper and effective representation in defence.

And

Further, it is also prayed that your goodself would also be pleased to drop the said proposal if any, against the applicant for the interest of justice.

And for this act of kindness, the applicant is duty bound and shall ever pray:-

Copy to :-

1. Assistant Commissioner,
K.V.S., Silchar Region,
(Assam).
2. Chairman, V.M.C.,
K.V., ONGC, Nazira.

Signature of applicant.

Anil Kumar Shukla

(Anil Kumar Shukla)
P.R.T.

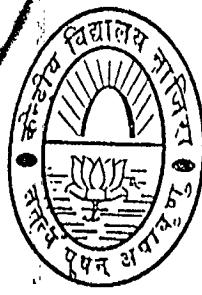
K.V., ONGC, Nazira (Assam).

लोगों की मरी NOT INSURED

लगाये गये अंकित को का मूल्य रु. 24/- A) No. 110
Amount of Stamps affixed Rs. 24/- A) No. 110
एक रुपये 6320
Received a Registered Letter
संग्रहीत का चिन्ह
Address to: ONGC, Nazira
Date stamp: Nazira

पंचायती अधिकारी की इकाई
Signature of Panchayat Officer

After 11
JL
Amrta



KENDRIYA VIDYALAYA

ONGC Nazira, Dist-Sibsagar

केन्द्रीय विद्यालय

ओ एन जी सी, नाजिरा, जिला-शिवसागर - 785685 (आसाम)

(D) 52232 (D O T)
21041 (ONGC)

Ref. No.

No.F.Per/A.K.Shukla/KVN/2001-02/4431

Date : - 14.8.2001

To

Shri Anil Kumar Shukla,
Primary teacher,
Kendriya Vidyalaya
Nazira.

Sub:- Memorandum No.F.Per/A.K.Shukla/KVN/2001-02/4431 dated 04.8.2001.

1. I am to acknowledge your representation dated 10.8.2001, sent by Registered post on 13.8.2001 and received in this Office on 14.8.2001 in response to the above referred Memorandum.
2. Regarding para 3 of your representation, you are well aware of Office Order No.KVN/per/A.K.Shukla/2001-02/4810-14 dated 14.12.2000, since the copy of the same was also been received by you through Peon Book, vide Sl.No 98 on dated 14.12.2000, whereby Sri Y.N.Yadav, PGT (Hindi) was appointed as Inquiry Officer alongwith Sri A.N.Sharma, Head Master, as an Assistant to conduct the preliminary inquiry. During the process of inquiry you have admitted in your written statement dated 16.12.2000, submitted to the inquiry officer, for imposing punishment to the students. During that inquiry you have already inspected all the relevant complaints and supporting relevant documents. Regarding article-2 of the statement of imputation of misconduct, the undersigned i.e. disciplinary authority does not deem it necessary to conduct any inquiry, since the derogatory remarks and undesirable comments have been written by you in the Vidyalaya order book and/ or in peon book, which are the sufficient documentary evidences to take cognizance of your habit of committing intentional and deliberate acts of misconduct.
3. Regarding Para 4 of your said representation, the undersigned being the disciplinary authority, grant you the permission to inspect the relevant documents in presence of Shri Y.N.Yadav PGT Hindi, Shri A.N.Sharma Head Master and Shri S. Ahmed UDC of this vidyalaya in the Vidyalaya Office, in between 1340 Hrs to 1630 Hrs, either on 16.8.2001 or on 17.8.2001, failing which it will be presumed that you are not interested to inspect the relevant documents and the necessary action would be taken up accordingly by the disciplinary authority as per the provisions of the C.C.S (CCA) Rules 1965. Moreover it is to inform you that there is no provision in the C.C.S (CCA) Rules 1965 to grant sixty days time. Therefore your request in this concern can not be accepted. Above all your request for dropping the said proposal also can not be acceded to, because sufficient documentary evidences in support of the charges leveled, are against you


(VIJAY BHATNAGAR) 14.8.
Principal
M. V. H. S.

Aftered
Ch. Amrit

KENDRIYA VIDYALAYA, ONGC, NAZIRA

केन्द्रीय विद्यालय, ओ.एन.जी.सी. नाजिरा

P.O. Nazira, Distt. Sivasagar (Assam) Pin- 785685

52232 (O&R)
EPABX 21041(O)
22041(R)

No.F.Per/A.K.Shukla/KVN/2001-02/ P. B. 219

Date :- 18.8.2001

To

Shri Anil Kumar Shukla,
Piy Teacher,
K.V. ONGC Nazira.

1. This Office acknowledge the receipt of your letter dated 16.8.2001, in response to this Office letter No.F.Per/A.K.Shukla/KVN/2001-02/4470 dated 14.8.2001.
2. It is understood that you are not interested to inspect the relevant documents since you did not come to inspect the record neither on 16.8.2001 nor on 17.8.2001, at the specific time, date and place.
3. However, keeping a liberal view and to provide one more reasonable opportunity to you, the undersigned being the competent authority has decided to extend one more day i.e. 18.8.2001 for inspection of the relevant documents. If you are really interested to inspect the relevant documents, you may do so, between 13.40 hrs to 16.30 hrs on 18.8.2001 in the Vidyalaya Office, failing which it will be presumed that your intention is not bonafied and you are exhibiting a non co-operative attitude. Therefore no more opportunity will be provided to you and the action is accordance to the extant provisions of CCS(CCA) Rule,1965 will be taken against you.


(१८. ८.०१)
(VIJAY BHATNAGAR)
Principal,
Kendriya Vidyalaya Nazira
District Sivasagar

Attent
JL
Ansmt

Date - 18.8.2001

To

The Principal
K.V. ONGC, Nazira
(Assam)

Sub:- Inspection of the relevant documents.

Sir

Most respectfully and humbly, It is
prayed that relevant documents may kindly
be given for inspection as per your letter No.

'E/Per/A.K. Shukla/KVN/2001-02/P.B.-219

dated 18.8.2001. As I am present in your
office as directed (at 13.40 hrs) and now
time is 14.40 hrs.

Thanking you, sir.

Yours faithfully

A.K. Shukla, P.R.T.

K.V. Nazira,
(Assam)

~~Recd 8/8/01~~

I met Mr. Shukla
at the Vidhyalaya Preparatory
for 4 pm to 1.30 PM

5/8/01
(S.K. P.R.T.)

Asst. Sec
18/8/01

Attn
of
Ansari

Date:- 20.3.2001.

To,

The Principal,
K.V., ONGCL,
Nazira.(Assam).

Subject:- Inspection of the relevant and listed documents regarding.

Reference:- 1. Vide your Memo dated 4.8.2001.
2. Vide my representation dated 10.8.2001.
3. Vide your Office letter No. 4470 dated 14.8.2001.
4. Vide my representation dated 16.8.2001.
5. Vide your Office letter P.B. 217 dated 16.8.2001.
6. Vide your Office letter P.B. 219 dated 18.8.2001.
7. Vide my representation dated 18.8.2001.

Sir,

Most humbly and respectfully, the applicant submits and states as follows:-

1. That pursuant to your Memo dated 4.8.2001, the applicant vide his representation dated 10.8.2001 requested to supply the copies of the documents to be relied upon by the Department (K.V, Nazira) to prove the allegations against him and the same was acknowledged vide letter dated 14.8.2001 under reference.

2. That with regard to para - 2 of letter dated 14.8.2001, the applicant respectfully states that the learned Inquiry Officer namely Sri. Y.N.Yadav, PGT (Hindi) alongwith Sri. A.N.Sharma, Head Master etc., conducted the preliminary enquiry in the absence of the applicant and thereafter at 2:10 pm called ^{in the absence of the applicant and thereafter at 2:10 pm called} the applicant and compelled the applicant to give a Written Statement ^{forcefully} under threat and coercion as well as under undue influence for which the matter was reported to the S.D.P.O. Nazira by Rgd, Post on dated 21.03.01 alongwith the reference of Police towards the incidence of 16/12/2000. It is further stated that the I.O. and his assistant and closest confidant

Attested
Jd
Parmit

Amit Kumar Shukla

and works on the dictation of the concerned authority and as such the applicant has a reason to believe that he cannot get justice from such I.O. and his assistants during the course of enquiry and therefore the applicant files objections regarding their appointments etc., on the ground of "personal-biasness" and "vested interests". Further, it is also stated that the applicant was prevented to cross-examine the complainants as well as students to disprove the allegations and as such there has been total denial of principle of natural justice by the way of not providing the reasonable opportunity to the applicant to defend the allegations.

B7X
Anil Kumar Singh

3. That vide a letter dated 16.8.2001, the applicant refused the allegations made in letter dated 14.8.2001 and wherein para - 2 totally denied the allegations. It is further stated in para - 3 of the letter as referred to above that if relevant documents are voluminous, then please extend 15 days time for inspection and if not, please supply the C.T.C copies of the documents but curiously enough no action was taken in this regard.

4. That vide a letter dated 18.8.2001 the applicant was informed (please refer para - 3 of letter dated 18.8.2001) for the inspection of relevant documents during 1340 hrs to 1630 hrs in the Vidyalaya office on 18.8.2001.

5. That thereafter, the applicant complied the order and reached timely to the Vidyalaya Office but he was totally denied the inspection of relevant documents by the said Principal namely Sri. Vijay Bhatnagar, K.V, Nazira. It is to be noted that the applicant was present in the Vidyalaya office till 1440 hrs but surprisingly enough and even after several repeated request, he was denied the inspection of relevant documents and

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of
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as such the denial of the inspection of the relevant document has prevented the applicant to file his proper and effective representation in his defence, and therefore, there is a total denial of principle of natural justice.

6. That the applicant respectfully submits and states that, it is crystal clear that there is no relevant documents/complaints against the applicant, and if any, these are engineered documents and prepared and fabricated back behind the applicant and as such they can not sustain in the eye of law, and therefore the entire proceeding is liable to be set aside and quashed on this ground alone.

7. That the applicant files this representation bonafide for the interest of justice.

It is therefore, prayed that your goodself would be pleased to supply the said ^{listed} ~~linked~~ and relevant documents including the Preliminary Inquiry Report with all Annexures in the absence of which the applicant is fully prejudiced to file his effective and proper representation in his defence.

- AND -

Further, it is also prayed that your goodself would be pleased to grant him 60 days time from the date of receipt of the documents as referred to above.

- AND -

Further, it is once again

(A. H.)
A. H. ^{Attm}
Amrit

prayed that your goodself may be kind enough to drop the proposal if any at this stage itself ^{for application} for the interest of justice.

- AND -

Further, it is also prayed that your goodself ^{would be} pleased to ~~not~~ pass no final Order till the submission of the representation in defence after supply of the documents.

- AND -

Further, it is also prayed that your goodself would also be pleased to conduct free, fair and just enquiry into the allegations levelled against the applicant.

Signature of the applicant.

Copy to:-

1. The Assistant Commissioner,
K.V.S., Shilchar Region.
2. The Chairman,
V.M.C.,
K.V, ONGCL, Nazira,
for kind information and n/a.

Anil Kumar Shukla
(Anil Kumar Shukla),

P.R.T.,

K.V, ONGCL, Nazira,
(Assam).

NOT INSURED		क्रमांक
Amount of Stamps affixed	Rs. 2/- (P.A.D.)	No. 1572
Received a Registered		Date 15/1/1981
Addressed to	1/16/1/1981	Date 15/1/1981
K.V ONGCL, Nazira, Assam		Signature of Receiving Officer

After
jl *Amrit*

KENDRIYA VIDYALAYA, ONGC, NAZIRA

केन्द्रीय विद्यालय ओ.एन.जी.सी. नाजिरा ५२२३२ (O&R)
EPADX 21041(O)
22041(R)
P.O. Nazira, Distt. Sivasagar (Assam) Pin- 785685

No.F.Per/A.K.Shukla/KVN/2001-02/44470-87

Date:- 21.8.2001

ORDER

WHEREAS Shri Anil Kumar Shukla, PRT, K.V. Nazira, was informed of the proposal to take action against him vide a memorandum No.F.Per/A.K.Shukla/KVN/2001-02/4431 dated 4.8.2001 under Rule 16 of CCS (CCA) Rules 1965 for the misconduct as mentioned in the article 1 and article 2 contained in the statement of imputation of charges of misconduct against the said Shri Anil Kumar Shukla, PRT.

AND WHEREAS Shri Anil Kumar Shukla, PRT was given an opportunity to make such representation as he may wish to make against the proposal within 10 days of the receipt of the memorandum dated 04.8.2001 received by the said Shri Anil Kumar Shukla, PRT on 4.8.2001.

AND WHEREAS the said Shri Anil Kumar Shukla, PRT has not submitted any representation or written statement till date in his defense against the charges of misconduct as mentioned in the article 1 and article 2 appended with the memorandum dated 4.8.2001. But the said Shri Anil Kumar Shukla, through his letter dated 10.8.2001 sent by registered post on 13.8.2001 and received on 14.8.2001, requested to :

- Supply the copies of the complaints, standing orders of KVS, Headquarters, New Delhi, the judgement of Hon'ble Supreme Court of India and other documents.
- To grant 60 days times to submit his proper effective representation in his defense.
- To drop the said proposal.

AND WHEREAS in response to the aforesaid letter of the said Shri Anil Kumar Shukla, PRT, it was communicated to him vide letter No.F.Per/A.K.Shukla/KVN/2001-02/4470 dated 14.8.2001 (Which was received by the said Shri A.K.Shukla, PRT on 15.8.2001) that:

- although he has already inspected all the relevant complaints and relevant supporting documents, even then to provide him, the reasonable opportunity, the permission is being granted to him to inspect the relevant documents in the Vidyalaya Office in between 13.40 Hrs to 16.30 Hrs either on 16.8.2001 or on 17.8.2001, failing which it will be presumed that he is not interested to inspect the relevant documents.
- 60 days time cannot be granted to the said Shri Anil Kumar Shukla, to submit his proper and effective representation in his defense since there is no such provision in CCS(CCA) Rules 1965.
- Request for dropping the said proposal cannot be acceded to because sufficient documentary evidences in support of the charges leveled, are against him.

AND WHEREAS the said Shri A.K.Shukla, PRT, neither came on 16.8.2001 nor on 17.8.2001 to inspect the relevant documents at the specified time and place. Not coming for inspection of documents in his defense on 16.8.2001 and 17.8.2001 and requesting for more time reflect upon the dilatory tactics being adopted by the said Shri A.K.Shukla, PRT. Keeping the same course of strategy the said Shri A.K.Shukla, PRT, through his letter dated 16.8.2001, sent by registered post, received on 17.8.2001.

- Totally denied para 2 of the letter No.F.Per/A.K.Shukla/KVN/2001-02/4470 dated 14.8.2001.
- Requested for 15 days time for inspection of relevant documents.

It is pertinent to mention here that the said Shri Anil Kumar Shukla, PRT, has neither disputed article 1 and article 2 appended with memorandum dated 4.8.2001 nor submitted any representation in his defense, contradicting article 1 and article 2 appended with the memorandum dated 4.8.2001.

21.8.01 Continued to page ...2...

मान्यता प्राप्त अधिकार
मान्यता प्राप्त अधिकार
मान्यता प्राप्त अधिकार

A. K. SHUKLA
Date

Page...2...

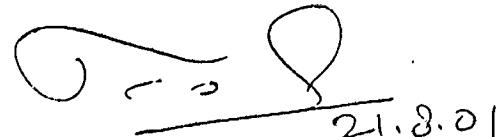
AND WHEREAS it was considered by the disciplinary authority, keeping a liberal view and to provide one more reasonable opportunity to the said Shri Anil Kumar Shukla, PRT, decided to extend one more day i.e. 18.8.2001 for inspection of the relevant documents and accordingly communicated to the said Shri Anil Kumar Shukla vide letter No. F.P.D/A.K.Shukla/KVN/2001-02/P.B.219 dated 18.8.2001 that:

(a) if he is really interested to inspect the relevant documents, he may do so between 13.40 Hrs to 16.30 Hrs on 18.8.2001 in the Vidyalaya Office,
(b) failing which it will be presumed that his intention is not bonafied and he has been exhibiting a non co-operative attitude. Consequent upon the said letter dated 18.8.2001, the said Shri Anil Kumar Shukla, PRT came to school at 14.00 hrs on 18th August, 2001. He was asked to submit the list including the relevance of the documents required by him to be discovered or produced. Thereafter the said Shri Anil Kumar Shukla, PRT went away and neither submitted any such list nor requested verbally for inspecting the relevant documents. Which confirms that the said Shri Anil Kumar Shukla, is not at all interested to inspect the records/documents, but desperately tends to linger on the process

AND WHEREAS it is considered by the disciplinary authority on the basis of material facts and documentary evidences made available through the fact finding inquiry in support of the charge as mentioned in the article 1 and the material facts and documentary evidences available as records in support of the article 2, the Disciplinary Authority is of the opinion that in such a crystal clear, holding an inquiry is not deemed necessary.

AND WHEREAS after careful consideration of the gravity of charges of misconduct in the finding report of the disciplinary authority (report enclosed) on each imputation of misconduct, the disciplinary authority has come to the conclusion that the gravity of charges are such as to warrant the imposition of a minor penalty.

AND NOW THEREFORE the disciplinary authority deems it a fit case for imposing a minor penalty as specified in Rule 11(iv) of CCS (CCA) Rules 1965 of WITH HOLDING OF THREE GRADE INCREMENT WITHOUT COMMUTATIVE EFFECT on the said Shri Anil Kumar Shukla, PRT with immediate effect and the implication of the penalty will come into force for withholding the future increments for three consecutive years dues in February'2002, February'2003 and February'2004.


21.8.01

(VIJAY BHATTACHARYA)
DISCIPLINARY AUTHORITY
& PRINCIPAL

KENDRIYA VIDYALAYA NAZIRA

PRINCIPAL / Principal

Kendriya Vidyalaya / Kendriya Vidyalaya
Nazira, Assam, Assam / ONGC, Nazira
Loknayak (Assam) / Librarian (Assam)

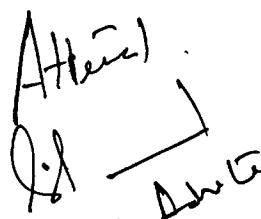
To

Shri Anil Kumar Shukla
Primary Teacher
Kendriya Vidyalaya ONGC
NAZIRA

Copy Forwarded to :-

1. The Commissioner Kendriya Vidyalaya Sangathan, New Delhi
2. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office Silchar.
3. The Chairman Vidyalaya Management Committee, KV Nazira

(VIJAY BHATTACHARYA)
Principal
Kendriya Vidyalaya ONGC
Nazira (Assam)

After
J.D. 
Ansari

KENDRIYA VIDYALAYA, ONGC, NAZIRA

केन्द्रीय विद्यालय ओ.एन.जी.सी. नाजिरा

P.O. Nazira, Distt. Sivasagar (Assam) Pin- 785685

No. 52232 (O&R)

APPENDIX 21011(O)

22011(R)

APPENDIX - I TO THE ORDER NO. F.Per/A.K.Shukla/KVN/2001-02/4431 Dated 21.8.01

FINDING REPORT OF THE DISCIPLINARY AUTHORITY IN TERMS OF THE IMPUTATION OF CHARGES IN ARTICLE 1 AND ARTICLE 2 AGAINST SHRI ANIL KUMAR SHUKLA, PRT KENDRIYA VIDYALAYA NAZIRA AS APPENDED WITH MEMORANDUM NO.F.Per/A.K.Shukla/KVN/2001-02/4431 dated 4.8.2001.

ARTICLE 1 - IMPOSING SEVERE CORPORAL PUNISHMENT TO STUDENTS OF CLASS IV A ON 12.12.2000.

FINDING OF THE DISCIPLINARY AUTHORITY- After receiving the intimation about the commission of an offence by Shri Anil Kumar Shukla, PRT, a preliminary Enquiry of the nature of "facts finding Enquiry" was conducted just to establish whether an offence has taken place and if so, whether Shri Anil Kumar Shukla, PRT, is *prima facie* involved in it. Vide Office order No.KVN/Per/A.K.Shukla/2000-01/4810-14 dated 14.12.2000, Shri Y.N. Yadav, Senior-most PGD of the Vidyalaya was appointed as an Inquiry Officer and Shri A.N.Sharma, Head-Master as an assistant. Such a preliminary Enquiry may even could have been held *ex parte*, but for the sake of fairness Shri Anil Kumar Shukla, PRT was given the reasonable opportunity to say what he may have to say about the allegations against him. At this enquiry all available evidence and relevant documents were collected in the presence of Shri Anil Kumar Shukla, PRT. After having inflicted severe corporal punishment on 12.12.2000 to the three students of Class IV A, Master Debashish Biswas was hospitalized. Dr. B. Dwarah Medical Officer ONGC Dispensary Geleky Distt. Sibsagar wrote on the prescription slip "Pain both legs following repeatedly physical exertions (sitting and standing 100 times). The said student was compelled for complete rest for six days. The other two students viz. Shiladitya Bagchi and S. Wilson Pramod have also complained of the same quantum of physical corporal punishment. The three Class Monitors Ms. Pallavi Bhuyan, Master Sayed Md. Maruf and Master Anuradha Boruah have witnessed and confirmed the quantum of physical corporal punishment given by Shri Anil Kumar Shukla, PRT, to the aforeslated three victim students. After having seen all the relevant complaints and documents confirming the commission of the offence of "Imposing physical corporal punishment" Shri Anil Kumar Shukla, PRT, the accused officer, in his written statement dated 16.12.2000 admitted categorically mentioning "I have been compelled for punishment, i.e. sitting and standing 5 or 10 times" which contradicts all the evidences including the prescription slip of a Medical Doctor.

The said coercive type of brutal and inhumane civil misconduct and misdemeanor of Shri Anil Kumar Shukla, PRT has caused unwarranted harassment to the parents on one side and tarnished good reputation of the Vidyalaya on the other.

The standing circular No.2 (CDN) No.F.11-7/71-KVS dated 01.7.71 has also been circulated vide KVS-Hqrs Letter No. F.3-71/97-KVS (Mig.) dated 04.12.97, whereby it has been reiterated that "No corporal punishment should be awarded to any student". Moreover, recently a summary of the judgement of Hon'ble Supreme Court of India was also published in the leading newspapers regarding ban on imposing physical corporal punishment to the students in School.

Being a citizen of India and an employee of KVS it is imperative on part of Shri Anil Kumar Shukla, PRT to have knowledge of such an important issue.

Now therefore, as per the findings of the disciplinary authority, he is of the opinion that an offence of imposing coercive corporal punishment has been committed by the accused Shri Anil Kumar Shukla, PRT, Kendriya Vidyalaya Nazira, and all the available evidences and relevant documents prove that the said Shri Anil Kumar Shukla, PRT has violated the directives of the department and has committed a criminal offence by inflicting severe corporal punishment to the students of such tender age.

O - 8 - 21.8.01

"मानव सम्मान विवरण" / Principal
केन्द्रीय विद्यालय नाजिरा
पृष्ठ 21 से 22 पर्याप्त।

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AND HENCE THEREFORE the disciplinary authority has reached to the conclusion that the accused Shri Anil Kumar Shukla, PRT, Kendriya Vidyalaya Nazira is found at fault of committing such offence as mentioned in article 1 of the imputation of charges appended to the memorandum dated 4.8.2001, and thus the said Shri Anil Kumar Shukla, PRT Kendriya Vidyalaya Nazira is liable to be penalized suitably under Rule 11(iv) of CCS(CCA) Rule 1965.

ARTICLE-2 -WRITING DEROGATORY REMARKS AND UNDESIRABLE COMMENTS IN THE ORDER BOOK OF THE VIDYALAYA.

FINDING OF THE DISCIPLINARY AUTHORITY :- Writing derogatory remarks and undesirable comments in the Vidyalaya Order book, as a quotation of self explanation or countercharge, by the accused Shri Anil Kumar Shukla, PRT, K.V. Nazira to his head of the Office, to which the said Shri Anil Kumar Shukla, PRT is not authorised to use for his personal purpose, shall amount to unauthorized communication, which is not only improper but also involves contravention of Rule 11 of CCS(Conduct) Rules 1964, which are equally applicable on all the KVS employees. It has been reiterated so many times that unauthorized communication in Vidyalaya Order book is violation of provisions of conduct Rules and other corresponding provisions which amount to a serious misconduct, causing infringement of Rule 11 of CCA(Conduct) Rules 1964 and who so ever commits such serious misconduct is liable to disciplinary action as per provisions mentioned in CCS (CCA) Rules 1965.

Now therefore, as per the finding of the disciplinary authority, he is of the opinion that the accused Shri Anil Kumar Shukla, PRT has become habitual of writing derogatory remarks and undesirable comments which is a severe misconduct. As mentioned in article-2 of the memorandum dated 4.8.2001, the said Shri Anil Kumar Shukla, PRT has committed such severe misconduct at six specified occasions, which is categorized as unauthorized communication, which makes him liable for disciplinary action.

AND HENCE THEREFORE the disciplinary authority has reached to the conclusion that the accused Shri Anil Kumar Shukla, PRT, Kendriya Vidyalaya Nazira, is found at fault for causing infringement of Rule 11 of CCS(Conduct) Rules 1964 as mentioned in article 2 of the imputation of charges appended to the memorandum dated 4.8.2001 and thus the said Shri Anil Kumar Shukla, PRT K.V. Nazira is liable to be penalized under Rule 11(iv) of CCS(CCA) Rule 1965.

21.8.01
(VIJAY BHATNAGAR)
PRINCIPAL
KENDRIYA VIDYALAYA NAZIRA
& Disciplinary Authority.

PRINCIPAL / Principal
Shri Anil Kumar Shukla / Kendriya Vidyalaya
Nazira, ONGC, Andhra / ONGC, Nazira
Gopal Chandra / Gopal Chandra (Asst. Principal)

Atma
Jit
Bera

Date - 29.8.2001

To,

The Joint Commissioner (Admin)
and
The Appellate Authority
Kendriya Vidyalaya Sangathan
18 Institutional Area
Shaheed Jeet Singh Marg
New Delhi- 110016

IN THE MATTER OF:-

An appeal under Rule 23 of
CCS (CCA) Rules 1965 read with
para - 6 of the Appendix XIX of
Education Code for Kendriya
Vidyalayas.

— And —

IN THE MATTER OF:-

An Order bearing
Memorandum No. F Per/A. K.
Shukla/KVN/2001-02/4486-89 dated
21-08-2001 passed by the
Principal, Kendriya Vidyalaya,
ONGCL Nazira, where by imposed
the minor penalty by WITH
HOLDING OF THREE GRADE
INCREMENT WITHOUT
CUMULATIVE EFFECT as
specified in Rule 11(1)(v) of CCS
(CCA), Rules, 1965 with immediate
effect allegedly.

Attn
G.
Funto

— And —

IN THE MATTER OF:-

Anil Kumar Shukla,
Primary Teacher,
Kendriya Vidyalaya, ONGC Nazira

..... Appellant

The humble appellant of the aforesaid Appeal-----

MOST RESPECTFULLY SHEWETH

1) That the humble appellant respectfully states that the Principal, namely Shri Vijay Bhatnagar joined K. V. Nazira on transfer from K. V. Lekhapani in the year 1999. (please refer history of Sri Vijay Bhatnagar, K. V. Lekhapani, K. V. Chitraranjan and K. V. Kokrajhar for brief introduction which has been brought into lime light in K.V.S.)

2) That since 06-07-2000 the said Principal started torturing and harassing mentally and physically to the humble appellant and on finding no alternative, he was compelled to intimate the matter to the law and order enforcing agencies by way of submitting representations dated 16-12-2000, 21-03-2001 and 15-08-2001.

The copies of the representations are annexed as annexures 1, 2, and 3 respectively.

Anil
Shukla
Appellant

Shukla

Kumar

Hindi

3) That the humble appellant respectfully states that thereafter the said Principal started issuing various Memoranda in this or that pretext without any reason or rhyme. Not only this some students and guardians were dictated and instructed to write written complaints against the appellant on baseless and fabricated grounds, so that the concerned authority may start some disciplinary action against the appellant and accordingly some ex-parte preliminary enquiry was held in back behind of the appellant by his supporters and subordinate staff of the said Principal, who allegedly proved the charges and on 16-12-2000 after closing of the Vidyalaya at 2:10 P. M. the humble appellant was called verbally by Sri Y. N. Yadav (P.G.T. Hindi) and Inquiry Authority and under compelled situation and in fear psychosis & terrorised atmosphere, the appellant was forced to give in writing his written statements as per their desire and need.

4) That humble appellant respectfully states that he was served a Memorandum of charges dated 04-08-2001 passed by the Principal, K.V., Nazira where in para-2&3, he was asked to submit his written statement in defence within 10 days from the date of receipt of the Memorandum. It be stated here that the copy of the documents relied upon by the department were neither annexed alongwith the Memorandum of charges dated 04-08-2001 nor supplied to the appellant, in absence of the documents proposed to be relied by the department, it was not possible for humble appellant to make an effective written representation in his defence. Thus, the humble appellant made a representation on 10-08-2001 to the Principal, K. V., Nazira to supply the copies of the relevant and listed documents.

Attest
J. S. Puri

Moreover, the appellant also sought 60 days time to file his representation in his defence from the date of receipt of the relevant documents but the same was denied and as such the humble appellant was prevented to submit a representation in his defence within stipulated time. Although in para-4 of the said representation dated 10-08-2001, the humble appellant categorically denied all allegations levelled against him as an abundant caution. Not only this the humble appellant also requested to the Principal, K.V. Nazira to drop the said proposal for the interest of justice but the said representation was turned down from the concerned end vide a letter dated 14-08-2001.

Copy of representation dated 10-8-2001
is annexed as annexure No- 4.

5) That the humble appellant vide his letter dated 16-08-2001 also denied all the allegations levelled against him in his letter 14-08-2001. Be it noted that in para-3 of his representation dated 16-08-2001 the humble appellant again requested to the Principal, K.V., Nazira seeking 15 days time for inspection of documents provided if the relevant documents are voluminous and if not, kindly supply the C.T.C. copies of documents which was responded vide a letter dated 18-08-2001, wherein para-3 it was stated that one day time is given for the inspection of the relevant documents between 13-40 hrs. to 16-30 hrs. on 18-08-2001 in the Vidyalaya office if you are really interested to inspect the relevant documents, you may do so. Pursuance to the letter dated 18-08-2001, the humble appellant complied the order and reached to the office of the Principal dated 18-

Attn
Q.S. / Date

Shankla
Anil Kumar

08-2001 at 13-40 hrs but curiously enough, the humble appellant was totally denied the inspection of relevant and listed documents to be relied upon by the department and as such there was total denial of the reasonable opportunity to the appellant to file his representation in his defence.

The copies of the representations dated 16-08-2001 and 18-08-2001 are annexed as annexures No. - 5 & 6 respectively.

6) That thereafter the humble appellant again submitted a representation dated 20-08-2001 (19-08-2001 being Sunday) by regd. post where in again requested to supply the copies of the listed and relevant documents including Preliminary enquiry report with all annexures and also sought 60 days time to submit his representation in defence. It was also stated there in not to pass the final order till the submission of the representation in his defence which was only possible after supply of the documents as referred to above. Further, it was also prayed therein to conduct free, fair and just enquiry into the allegations levelled against the appellant for observance of the Principle of natural justice.

The copy of the representation dated 20-08-2001 is annexed as annexure No.-7.

7) That thereafter the learned Disciplinary Authority and Principal, K. V., Nazira passed the final order dated 21-08-2001 in

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J. S. A. M. T.

absentia when the humble appellant was seriously sick and on leave, served the said order by Regd. post. It is also necessary to mention herein that the leave application duly supported by Medical certificate is also turned down for the reasons best known to the concerned end.

The copy of the order dated 21-08-2001 is annexed as annexure No. 8.

8) That on being aggrieved by the impugned order of penalty dated 21-08-2001 the humble appellant prefers this appeal on the following grounds amongst others.

GROUNDS OF APPEAL

- (i) For that the copy of the preliminary enquiry report along with the complaints if any, was not furnished to the humble appellant. Which were in the possession of the Disciplinary Authority and Principal K.V., Nazira and as such the humble appellant was prevented to submit his proper and effective representation in his defence.
- (ii) For that the humble appellant sent four representations dated 10-08-2001, 16-08-2001, 18-08-2001 and 20-08-2001 respectively to the learned Disciplinary Authority and Principal, K. V., Nazira to supply the copies of the documents and / or to allow inspection of the documents (if voluminous) as referred to above but the same was denied to him.

A. H. Patel
J. S. Patel

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Anil Kumar Shukla

- (iii) For that the learned Disciplinary Authority and Principal, K. V., Nazira also not granted time sought for submitting the effective and proper representation in defence to the appellant and as such on this ground alone the impugned order dated 21-08-2001 passed by the Disciplinary Authority and Principal, K. V., Nazira is liable to be set aside and quashed.
- (iv) For that the humble appellant was denied reasonable opportunity of inspecting the documents and as such he was prevented to submit his written statement against the article of charges. The omission to supply the copies of the documents and / or inspection of documents has the effect of vitiating the entire proceedings and the impugned order dated 21-08-2001 is unconstitutional, arbitrary and unsustainable in the eye of law.
- (v) For that the learned Disciplinary Authority and Principal, K. V., Nazira acted in contravention with the rules by stating in his letters dated 14-08-2001 and 18-08-2001 that the humble appellant was given an opportunity for inspection of documents but the appellant was denied the inspection of documents on 18-08-2001 in the office of the Principal, K.V., Nazira, there has been total denial of principle of natural justice and on this point alone the entire proceedings including the enquiry report etc. are liable to be set aside and quashed.
- (vi) For that the learned Disciplinary Authority and Principal, K. V., Nazira didn't furnish the copy of the preliminary enquiry report on the basis of which the final order was passed and as such the impugned order dated 21-08-2001 cannot sustain in law and

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equity and all further consequential action taken pursuant to the enquiry report also unsustainable in law and therefore same is liable to be set aside and quashed.

(vii) For that the entire proceedings was conducted ex-parte and the final order was also passed without considering the various representations as referred to above in annexures and as such the the learned Disciplinary Authority and Principal, K. V., Nazira committed a great error of law and acted in contravention of the Principle of natural justice and therefore such act and omission has the effect of vitiating the entire proceedings including the impugned order dated 21-08-2001.

(viii) For that learned Disciplinary Authority and Principal, K. V., Nazira was not justified in refusing to consider the repply of the appellant dated 20-08-2001 sent by regd. post and on this ground alone, the impugned order dated 21-08-2001 cannot stand in the scrutiny of law and thus same is liable to be set aside and quashed.

(ix) For that the impugned order dated 21-08-2001 was passed on extraneous consideration and non existance of facts and therefore the same is discriminatory whimsical, arbitrary and the same is liable to be set aside and quashed.

(x) For that the entire proceedings including the impugned order dated 21-08-2001 is disproportionate per se to the gravity and seriousness of the charges and therefore the same is liable to

A. H.
Amit

be set aside and quashed.

(xi) For that any view of the matter whether in fact or in law the impugned order of the penalty dated 21-08-2001 cannot be sustained and in total violation of the principle of natural justice and the same is liable to be set aside and quashed.

(xii) For that the impugned order dated 21-08-2001 is illegal, arbitrary and malafide and as such the same is liable to be set aside and quashed.

(xiii) For that there is already a case pending in the Hon'ble Tribunal (CAT) Guwahati in connection with Dies - Non in which malafide is imputed against the said Principal, namely Sri Vijay Bhatnagar, K.V., Nazira and as such the impugned order dated 21-08-2001 was passed as reprisal and therefore, the same is vindictive and liable to be set aside and quashed.

(xiv) For that the learned Principal, K.V., Nazira, ^{has misused his power as} is not the competent Authority to impose the penalty upon the humble appellant & the same is liable to be set aside and quashed.

In the premises aforesaid,
your humble appellant prays, that
he may be given a personal
hearing and after hearing the
matter your honour may be
pleased to allow the appeal and
set aside the impugned order of

Att'd
Am't

Amil Kumar. Sankle

the penalty dated 21-08-2001
passed by Disciplinary Authority
and Principal, K. V., Nazira and /
or may pass such order or orders
as your honour may deem fit and
proper in view of the entire matter.

Signature of the appellant :

Anil Kumar Shukla
(Anil Kumar Shukla, P.R.T.)

Kendriya Vidyalaya, ONGCL,
Nazira

Dist, Sibsagar (Assam)

Pin - 785 685

Enclosures

Total No. of Annexures :

Total No. of Pages :

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Jit
Anita

KENDRIYA VIDYALAYA SANGATHAN::REGIONAL OFFICE::SILCHAR

F.3-4/2002-KVS(SR)

11371-74

Date: 04.9.2002

23

ORDER

WHEREAS the penalty of withholding of three increments for a period of three years in the pay scale of Rs.4500-125-7000 without cumulative effect and not effecting his pension was imposed upon Sh.A.K.Shukla by the Principal, KV,ONGC,Nazira being the Disciplinary Authority, vide order dt. 21.8.2001.

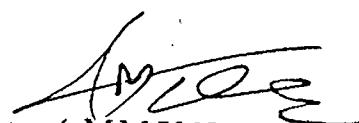
WHEREAS the said Sh.A.K.Shukla filed an appeal against the aforesaid order of the Disciplinary Authority to the Joint Commissioner(Admn.),KVS, New Delhi on 29.8.2001, which has been considered by the undersigned being the Appellate Authority. Sh.Shukla was called for a personal hearing on 02.8.02 which he availed of.

AND WHEREAS having heard the appellant in person on 02.8.02 and based on the consideration of facts and circumstances of the case and contents adduced by the Appellant in his appeal, which do not negate the facts on records, the undersigned being the Appellate Authority has come to the conclusion that the aforesaid penalty imposed by the Disciplinary Authority is commensurate with the misconduct and is adequate and therefore, needs no modification.

NOW THEREFORE, the undersigned hereby confirms and up holds the aforesaid penalty awarded by the Disciplinary Authority and rejects the appeal filed by Sh.A.K.Shukla.

Further the request of said Sh.Shukla for allowing him Defence Assistant at the stage is also hereby rejected being not logical as the personal hearing has already taken place.

The Appeal filed by the said Sh.Shukla is accordingly disposed of.


(M.M.JOSHI)
ASSISTANT COMMISSIONER

Copy to:

- ✓ 1. Sh.A.K.Shukla, PRT, Kendriya Vidyalaya, Satakha.
- 2. The Principal, Kendriya Vidyalaya, Satakha.
- 3. The Principal, Kendriya Vidyalaya, ONGC, Nazira.
- 4. Guard File.

(A. H. S.)
J. J. *Revt. T.*

Guwahati Bench - 1

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH - GUWAHATI

M. K. MAJUMDAR
Advocate,
Standing Counsel K. V. Sangathan

03-03-05

Original Application No. 328 of 2004

Sri Anil Kumar Sukla

Applicant

-V E R S U S-

The Chairman, Kendriya Vidyalaya

Sangathan & others

Respondents

-AND-

IN THE MATTER OF:

Written Statement filed by the Respondents.

-AND-

IN THE MATTER OF:

The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Silchar Region, Silchar.

..... Deponent.

The Written Statement on behalf of the Respondents are as follows:

Contd..../-

I, Sri E. Prabhakar, the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Silchar on being authorized by the Respondents, I am filing the written statement on their official capacity. That I am fully aware with the facts and circumstances of the case being the Assistant Commissioner of the region and as such I am competent to submit this written statement.

1). That the respondents have been served with a copy / of the Original Application and on being supplied with comments from the Head-quarters this reply has been submitted on behalf of the respondents.

2). That the deponent states that he being the Assistant Commissioner of Silchar region being authorized by the Respondents is competent to file this written statement on their behalf on being supplied the para wise comments from the Head Quarters.

3). That the deponent states that the allegations / averments which are not borne out of records are denied and not admitted. Any allegations / averments which are not specifically admitted hereinafter are deemed to be denied.

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4). That the deponent states that before contro-
verting the contents of the paragraphs made in Original
Application begs to apprise that the Kendriya Vidyalaya
Sangathan is registered under the Societies Registration
Act XXI of 1860 and fully financed by the Government of
India with the objectives of -

- (I) to meet the educational need of children of
transferable Central Government Employees
including defence personnel by providing common
syllabus of education.
- (II) to develop Vidyalaya as a model school in the
context of National goal of Indian education.
- (III) to initiate / promote experimentation in the
field of Education in collaboration with other
bodies like C.B.S.C, N.C.E.R.T etc and
- (IV) to promote national integration.

Para-wise Comments

5). That with regard to the statements made in
paragraphs 1, 2 & 3, it is stated that the present appli-
cation i.e. Original Application No.328/2004 is time

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barred and the grounds adduced by the applicant for condonation of delay are not convincing and tenable.

And in this regard a written statement is filed against the Miscellaneous Petition No.156/2004 explaining in detail the lapses and laches on the part of the applicant. And as such this Hon'ble Tribunal may be pleased to dismiss the application.

6). That with regard to the statement made in paragraph 4.1, 4.2, 4.3 and 4.4, it is stated that the applicant is having all India Transfer Liability as per service conditions. The action of the Disciplinary Authority is as per CCS(CCA) Rules, 1965 to find out prima facie case.

That it is further stated that the allegation made by the applicant that before issuing order dated 14-12-2004 i.e. conducting of preliminary enquiry (Fact Finding enquiry) no show cause notice was served by the Disciplinary Authority is misleading. It was only a fact finding enquiry and the duty of the officials so appointed was to find whether prima facie case exists or not. So, the action of the disciplinary authority is in order and as per law. It is pertinent to mention here that during the said inquiry the statement of students and parents were recorded on 14-12-2000 and pursuant to that on 14-12-2000 vide letter No.KVN/Per/A.K.Sukla/2000-01/

- 5 -

4810-14, the applicant was asked to make representation and he was told about the written complaint and documentary evidences so recorded on 14-12-2000. After going through the written complaint and documentary evidences he has submitted his statement on 16-12-2004 itself. So the action of the disciplinary authority is in order and as per law.

(7). That with regard to the statements made in paragraphs 4.5, 4.6 and 4.7, the deponent begs to state that the disciplinary authority i.e. the respondent No.3 has taken action against the applicant on the misconduct noticed by him based on the complaint / fact finding inquiry. The immediate supervisor is the appropriate authority to judge the work and conduct of an employee. The action of the Disciplinary authority is within the powers vested with him and as per law.

Further the applicant was given reasonable opportunity to make his representation as he wished to make against the proposal of the disciplinary authority vide Memorandum dated 04-08-2001.

The procedure laid down for Minor penalties in the CCS (CCA) Rules, 1965 envisages as under;

1. The Govt. Servant should be given a copy of the charge-sheet with a statement of imputations of misconduct.

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2. He should be given reasonable time and opportunity to submit his defence.
3. On receipt of the defence, the Disciplinary Authority may pass appropriate orders, or may hold an enquiry if:
 - (i) it is of the opinion that such enquiry is necessary or
 - (ii) Inquiry is mandatory in view of the punishment proposed.

Bare look of the order dated 21-08-2001 passed by the Disciplinary Authority reveals that the procedure laid down for the purpose has been complied with entirely. Hence the averment of the applicant that the penalty has been imposed upon him without hearing him and without following the prescribed procedure is baseless and misleading.

8). That with regard to the statements made in paragraph 4.8, the deponent begs to state that the applicant preferred an Appeal to the Joint Commissioner (Admn) Kendriya Vidyalaya Sangathan, New Delhi though the Appellate Authority in this case was the Assistant Commissioner. The Appellate Authority before disposing of the appeal afforded the opportunity of personal hearing on 02-08-2002 which the applicant availed of.

After considering the submission made during the personal hearing and the grounds made in the appeal by the applicant, authority disposed of the same vide order dated 04/23-09-2002.

9). That with regard to the statement made in paragraph 4.9, the deponent denies the correctness of the same and further states that the facts and circumstances of the case has been considered by the appellate authority before disposing of the appeal.

10). That with regard to the statement made in paragraph 4.10, the deponent states that the averment made by the applicant has no relevance with the instant case. The action of the disciplinary authority is based on the misconduct of the applicant. As such the action of the Disciplinary Authority is just and fair.

11). That with regard to the statement made in paragraph 4.11, the deponent states that the action of the respondents is based on the facts and circumstances of the case. The orders dated 21-08-2001 and 04/23-09-2002 passed by the Disciplinary Authority and the Appellate Authority are as per law.

12). That with regard to the statements made in paragraphs 4.12, 4.13, 4.14, 4.15, 4.16, 4.17 and 4.18, deponent denies the allegations of the applicant and

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states that the action of the respondents is as per law and in accordance with provisions laid down for the purpose. There is no violation of natural justice.

The deponent further states that under the facts explained above, the Hon'ble Tribunal may be pleased to dismiss the instant case to meet the ends of justice.

(13). That with regard to the grounds set forth by the applicant to substantiate the statements and averments it is respectfully submitted that in view of the above paragraphs of the written statement controverting the statement made in the application, the grounds are no good grounds and the O.A is liable to be dismissed with cost.

(14). That with regard to the statement made in paragraph 8, the deponent states that the prescribed procedure has been followed by the respondents and reasonable opportunity has been given to the applicant to prove his innocence by the Disciplinary Authority as well as the Appellate Authority. The action of the respondents is justified as per law and also that the O.A has not been filed within the prescribed limitation on time. The Hon'ble Tribunal may be pleased to dismiss the case with exemplary cost(s).

Verification page/9

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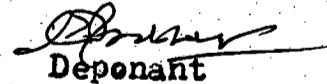
VERIFICATION

I, Dr. E. Prabhakar, Assistant Commissioner,
Kendriya Vidyalaya Sangathan, Regional Office, Silchar

Distt. Cachar, Assam the respondent/applicant of the
instant case do hereby solemnly verify that the
statements made in the paragraphs 1, 2, 3, 4, 5, 6 (part), 7, 9, 10,
11, 12, & 13 are true to my knowledge, those made in
paragraphs 6 (part) & 8
are being matters of records are true information
derived therefrom which I believe to be true.

And I sign this verification today on this the 3rd
day of March 2005

Date: 03-03-05


Deponent
Asst. Commissioner
KVS (R.O.) Silchar