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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓ O.A/T.A No. 138/2005

R.A/C.P No.

E.P/M.A No. 2/2006

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FORM NO. 94
(SEE RULE 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. 138/05
Misc. petition No. _____
Contempt petition No. _____
Review Application No. _____

Applicant(s) D. K. Srivastava

Respondents U.O.I. Jans.

Advocate(s) for the Applicant(s) M. Chanda, G.N. Chakrabarti, S. Nath

Advocate(s) for the Respondents CSC

Notes of the Registry	Date	Order of the Tribunal
<p>Application is in form is filed/ F. for Rs 50/- deposited vide PC/BP No. <u>20.6.133.885</u> Dated <u>13.6.05</u></p> <p><i>gler</i> Dy. Registrar</p> <p><i>Steps not taken.</i></p> <p><i>27.6.05</i> Copy of the Judgment has been sent to the D/Sec. for issuing the line to the applicant as well as to the L/824, Council for the R.V.S.</p>	<p>15.6.2005</p> <p>mb</p> <p>20.6.2005</p> <p>mb</p>	<p>Post on 20.6.2005.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>Heard learned counsel for the parties. The application is disposed of in terms of the order passed in separate sheets at the admission stage.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>

CENTRAL ADMINISTRATIVE TRIBUNAL :::GUWAHATI BENCH.

O.A. No 138 of 2005.

DATE OF DECISION: 20.06.2005

Sri D.K. Srivastava

APPLICANT(S)

Mr. M. Chanda, Mr. G. N. Chakraborty
Mr. S. Nath

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

U. O. I. & Ors.

RESPONDENT(S)

Mr. M.K. Mazumdar

ADVOCATE 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.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 138/2005

Date of Order : This the 20th day of June, 2005.

The Hon'ble Sri Justice G. Sivarajan, Vice-Chairman.
The Hon'ble Sri K.V. Prahladan, Administrative Member.

Sri Dharendra Krishna Srivastava
Primary Teacher,
K.V. Tenga Valley,
Arunachal Pradesh - 790 115.

... Applicant.

By Advocates Mr. M. Chanda, Mr. G.N. Chakrabarty, Mr. S. Nath.

- Versus -

1. The Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Human Resource,
New Delhi - 110 001.
2. The Commissioner,
Kendriya Vidyalaya Sangathan,
New Delhi.
3. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office,
Maligaon, Guwahati - 12.

... Respondents.

By Mr. M. K. Mazumdar, Standing Counsel, Kendriya Vidyalaya
Sangathan and Mr. K. Upadhyay, Advocate.

ORDER (ORAL)SIVARAJAN. I. (V.C.)


The applicant was employed as Primary Teacher in Kendriya Vidyalaya, Tenga Valley, Arunachal Pradesh. The respondents by order dated 29.04.2003 (Annexure - 15) imposed the penalty withholding two increments of pay for the periods of two years. The period of suspension was also treated as non duty. The applicant then preferred an appeal dated 22.04.2004 (Annexure - 17) which was disposed of by the 3rd respondent by order dated 14.06.2004 affirming the order dated 29.03.2004 treating the suspension as non duty. The applicant then preferred further appeal dated 20.10.2004 (Annexure - 19) before the 2nd respondent both against the orders dated 29.03.2004 and 14.06.2004. The same was returned by the Principal, Kendriya Vidyalaya, Itanagar alongwith communication dated 09.12.2004. The applicant, it is stated, after curing the defect, the appeal was sent to the 2nd respondent through proper channel and that Principal, Kendriya Vidyalaya, Tenga Valley had received the same.

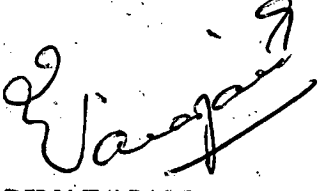
2. Mr. M. Chanda, learned counsel for the applicant submits that direction may be issued to the 2nd respondent to dispose of the appeal within a time frame. We have also heard Mr. K. Upadhyay, learned counsel on behalf of the respondent Nos. 2 and 3. Counsel submits that the application has not been received by the 2nd respondent and therefore no direction can be issued at this point of time. Counsel further submits that the appeal memorandum has also ~~not~~ been received by the Principal, Kendriya Vidyalaya, Tenga Valley and same will be forwarded to the 2nd respondent without delay.

[Signature]

3. Considering the facts and circumstances of the case, we are of the view that this application can be disposed of at the admission stage itself. Accordingly, there will be a direction to the Principal, Kendriya Vidyalaya, Tenga Valley (Arunachal Pradesh) to forward the appeal memorandum received from the applicant to the 2nd respondent within two weeks from the date of receipt of this order. The 2nd respondent on receipt of the appeal memorandum as aforesaid will dispose of the appeal within four months thereafter.

The O.A. is disposed of as above at the admission stage itself.


(K.V. [PRAHLADAN])
ADMINISTRATIVE MEMBER


(G. SIVARAJAN)
VICE CHAIRMAN

/mb/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

Filed by the applicant
through Subrata Das,
Advocate.
20.06.05

In the matter of:

O.A. No. 138/2005

Shri Dharendra Krishna Srivastava.

...Applicant.

-Vs-

Union of India & Ors.

.....Respondents.

-AND-

In the matter of:

Additional statements of facts submitted by the
applicant in support of the contention raised
by the applicant in Original Application.

The applicant above named most humbly and respectfully begs to state as follows:

1. That the applicant approached this Hon'ble Tribunal against the impugned penalty order dated 29.04.2003 issued by the Asstt. Commissioner, K.V.S, Guwahati Region and also against the memorandum dated 14.06.2004, whereby the period of suspension w.e.f. 29.01.2002 to 03.05.2003 has been treated as non-duty for all purposes such as increment, leave, pension etc. The applicant in support of his contention raised in Original Application, further begs to say that the applicant vide his representation dated 20.10.2004 preferred an appeal addressed to the Commissioner, KVS, New Delhi through proper channel, against the impugned order of penalty dated 29.04.2003 and also against the impugned order dated 14.06.2004. The appeal dated 20.10.2004 is returned by the Principal, K.V, Itanagar, without forwarding the same to

the higher Authority, vide letter bearing No. F.55/KVI-2/2004-05/1754 dated 09.12.2004, wherein it is stated that the appeal is returned, for further necessary action, from the end of the applicant. That the applicant thereafter submitted the above mentioned appeal addressed to the Commissioner, K.V.S (HQ), New Delhi through Principal, K.V, Tenga Valley on 17.02.05 and the same was thereafter forwarded by the Principal, K.V, Tenga Valley vide letter bearing No. Ref. F. Gn/KV TV/2004-05/2641-42 dated 18.02.05 to the Grievance Officer, K.V.S (RO) Ghy-12 for necessary action. However, the said appeal is still pending before the higher Authority and no communication is made by the higher Headquarter in respect of the appeal pending with them.

In the circumstances stated above the Hon'ble Tribunal be pleased to set aside and quash the impugned order of penalty dated 29.04.2003, and impugned order dated 14.06.2004.

A copy of the forwarding letter dated 18.02.05 is enclosed herewith and marked as Annexure-20.

2. That your applicant submitted the representation addressed to the Commissioner, K.V.S, (HQ), New Delhi, through proper channel, which was duly forwarded by the Principal, K.V, Tenga Valley, Arunachal Pradesh to the Grievance Officer (GR), Guwahati for necessary action, the said appeal is still pending with the higher Authority.

In the circumstances stated above the Original Application deserves to be allowed with cost.

VERIFICATION

I, Shri Dhirendra Krishna Srivastava, Primary Teacher, Kendriya Vidyalaya, Tenga Valley, Arunachal Pradesh, aged about 54 years, do hereby verify that the statements made in Paragraph 1 and 2 of the additional statements are true to my knowledge and I have not suppressed any material fact.

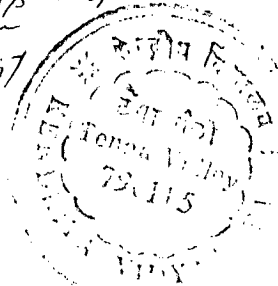
And I sign this verification on this the 18th day of June, 2005.

Dhirendra Krishna Srivastava

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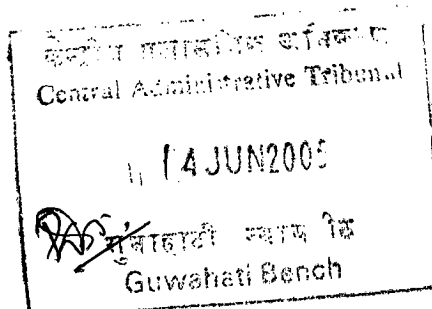
Annexure - 20

Received the representation of Mr. D.K. Srivastava, PRT
addressed to the Commissioner KVS (H.G.) NECU Delhi with
request to forward the same through proper channel.
(The Grievance Officer KVS (GR) GPT-12 Rtd representation dated -
17/02/2005 has been forwarded as per his request to the Grievance Officer
KVS (RO) GPT-12 for necessary action
vide letter No-101 F Gen/KVT/2004-05/
2841-42 dated - 18/02/05



[Signature]
CHECKED BY

*Affected
for
advocate*



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

O.A. No. 138 /2005

Shri Dhirendra Krishna Srivastava
-Vs-
Union of India & Ors.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

- 08.09.2001- Applicant joined as Primary Teacher at K. V, Itanagar.
- 25.01.2002- Assistant Commissioner, K.V.S, Guwahati Region informed the applicant that a primary/fact finding inquiry would be conducted on the basis of complain dated 03.12.01 as well as dated 22.01.02. (Annexure-1)
- 28.01.2002- Assistant Commissioner before receipt of the preliminary report placed the applicant under suspension. (Annexure-2)
- 24.06.2002- Respondents issued memorandum of charge sheet upon the applicant. (Annexure-3)
- 04.07.2002- Applicant submitted his reply denying the charges. (Annexure-4)
- 19.08.2002- Preliminary hearing was held on 19.08.02. (Annexure-5)
- 21.08.2002- Applicant was directed to inspect documents sought by the applicant for inspection. (Annexure-6)
- 03.09.2002- Applicant after inspection of the documents informed the inquiry officer that those documents are not genuine. (Annexure-7)
- 04.09.2002- Charged official was not examined by the inquiry officer, no cross-examination were conducted to the listed witnesses. (Annexure-8)
- 20.12.2002- Inquiry officer rejected the prayer for production of documents namely; report of preliminary inquiry and other documents. (Annexure-9)
- 28.03.2003- Inquiry report dated 28.03.03 was served upon the applicant on 03.04.03 with a direction to submit his representation if any, against the inquiry report. (Annexure-11)
- 04.04.2004- Applicant submitted detailed representation. (Annexure-12)

Dhirendra, Krishna, Srivastava

- ✓ 29.04.2003- Impugned order of penalty passed upon the applicant, whereby disciplinary authority imposed penalty of withholding of next two increments of pay for the periods of two years upon the applicant which will have the effect of future increments of pay. (Annexure-15)
- ✓ 24/29.03.04- Respondent No. 3 issued memorandum, wherein it is proposed to treat the period of suspension of the applicant for non duty for all purposes such as increment, leave, pension and full pay and allowances. (Annexure-16)
- 22.04.2004- Applicant preferred an appeal against the impugned order of penalty. (Annexure-17)
- ✓ 14.06.2004- Respondent No. 3 passed impugned order, whereby period of suspension w.e.f. 29.01.02 to 02.05.03 has been treated as non-duty for all purposes such as increments, leave, pension and for full allowances. (Annexure-18)
- 20.10.2004- Applicant preferred an appeal through proper channel addressed to the Respondent No.2 against the impugned orders dated 29.04.03 and 14.06.04. (Annexure-19)
- 09.12.2004- Principal, K.V, Itanagar returned the appeal dated 20.10.04 submitted by the applicant without forwarding it to the Respondent No. 2. Applicant again submitted the appeal on 18.02.05 through proper channel which was duly forwarded to the Commissioner, KVS, New Delhi.
- 17.02.2005- Applicant submitted the appeal through Principal, KV, Tenga Valley which was forwarded to the HQ, New Delhi on 18.02.05 by the Principal, K.V, Tenga Valley.

Hence this Original Application before the Hon'ble Tribunal.

PRAYERS

Relief(s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

Dhirendra Chishti, Srivastava

1. That the Hon'ble Tribunal be pleased to set aside the impugned penalty order dated 29.04.2003 and order dated 14.06.2004 and further be pleased to direct the respondents to pass necessary consequential orders for restoration of the benefit.
2. That the Hon'ble Tribunal be pleased to direct the Authority to consider the appeal of the applicant in accordance with rule.
3. Costs of the application.
4. Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for.

During pendency of this application, the applicant prays for the following relief: -

1. That the Hon'ble Tribunal be pleased to observe that pendency of this application shall not be a bar to the respondents to grant the relief as prayed for.

Dhirendra Krishna Sinha

4 JUN 200

गुवाहाटी बेंच
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

(An Application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the case : O. A. No. 138 /2005

Shri Dharendra Krishna Srivastava. : Applicant

- Versus -

Union of India & Others : Respondents.

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Filed by

Date: 14-6-2005

[Signature]
Advocate

Dhirendra Krishna Srivastava

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

(An Application under Section 19 of the Administrative Tribunals Act, 1985)

O. A. No. _____/2005

BETWEEN

Shri Dhirendra Krishna Srivastava.

Primary Teacher,

K.V, Tenga Valley,

Arunachal Pradesh- 790115.

...Applicant.

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Human resource,
New Delhi- 110001.
2. The Commissioner,
Kendriya Vidyala Sanghatan,
New Delhi.
3. The Assistant Commissioner,
Kedriya Vidyalyaya Sanghathan,
Regional office,
Maligaon, Guwahati- 12.

... Respondents.

Dhirendra Krishna Srivastava

15
Filed by
applicant through
advocate Sri
G. N. Chakraborty.
on 16-8-05. per

DETAILS OF THE APPLICATION

1. Particulars of order(s) against which this application is made

This application is against the impugned penalty order dated 29.04.2003, issued by the Asstt. Commissioner, K.V.S, Guwahati Region and also against non-entertainment of appeal against the aforesaid penalty order and also praying for setting aside the penalty order dated 29.04.2003 and to grant all consequential service benefit as well as against the memorandum dated 14.06.2004, whereby the period of suspension w.e.f. 29.01.2002 to 03.05.2003 has been treated as non-duty for all purposes such as increment, leave, pension etc. and further denied full pay and allowances for the said period.

2. Jurisdiction of the Tribunal.

The applicant declares that the subject matter of this application is well within the jurisdiction of this Hon'ble Tribunal.

3. Limitation.

The applicant further declares that this application is filed within the limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case.

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India. The applicant is presently working as Primary Teacher, Kendriya Vidyalaya, Tenga Valley.

4.2 That it is stated that the applicant since his joining in Kendriya Vidyalaya, No.2, Itanagar on 08.09.2001. The Principal T. Ramaiah started misbehavior with the applicant on the question of entitlement of the applicant regarding grant of transfer traveling advance even then he had

Dhirendra Mohan Sharma, Sr. Asst. Secy

submitted a bill of Rs. 17,944/- for adjustment against the Traveling advance of Rs. 20,000/-. The principal was determined not to sanction the said adjustment bill on the plea that the order of posting at Kendriya Vidyalaya, No.2, Itanagar has been modified at the instance of the applicant by the Asstt. Commissioner. The applicant submitted several representations to the Asstt. Commissioner through the Principal, Kendriya Vidyalaya, No.2, Itanagar for sanction of the adjustment bill of Rs. 17,944/-. However due to interference of T. Ramaiah, principal, Kendriya Vidyalaya No.2, Itanagar the bill has not yet been sanctioned but animosity has been developed in the mind of T. Ramaiah, Principal, Kendriya Vidyalaya No.2, Itanagar for submission of several representations for sanction and adjustment of transfer T.A. bill.

- 4.3 That it is stated that the applicant while serving as such in the capacity of Primary Teacher at Kendriya Vidyalaya No.2, Itanagar. The Assistant Commissioner, K.V.S, Guwahati region vide office order bearing letter No. 13-15/94-KVS (GR)/1585-86 dated 25.01.2002 deputed Sri P.S. Kathal, Principal, Kendriya Vidyalaya, New Bongaigaon to conduct the primary/fact finding enquiry on the complain dated 03.12.2001 as well as complain dated 22.01.2002 written by Sri T. Ramaiah, Principal, Kendriya Vidyalaya No.2, Itanagar but surprisingly the Assistant Commissioner before receipt of the preliminary enquiry report placed the applicant under suspension vide office order bearing letter No. F.13-15/94-KVS (GR) dated 28.01.2002 on the basis of the complain lodged by the Principal Kendriya Vidyalaya No.2, Itanagar.

Copy of the office order dated 25.01.2002 and 28.01.2002 are enclosed herewith as Annexure-1 and 2 respectively.

- 4.4. That it is stated that thereafter a memorandum of charge sheet dated 24.06.2002 was issued against the applicant proposing to hold an enquiry under rule 14 of CCS (CCA) Rules 1965, in the said memorandum of

Dhirendra, Krishna, Srivastava

charge sheet 3 Article of charges were framed against the applicant wherein it was alleged that on 29.11.2001 the applicant used unparliamentary words against the principal and created abnormal situations which compel to call off the meeting again on 22.01.2002, it was further alleged that the applicant abused the principal and used unparliamentary words against the Principal to create unhealthy atmosphere. It was further alleged that the applicant had violated the code of conduct for teachers of K.V.S cadre Article 55 Sub-clause 21 and 34 of Education code of K.V.S. Thus the applicant violated rule 3(1), (i), (ii) and (iii) of CCS (Conduct) Rules 1964 as extended to the employees of K.V.S.

A copy of the Memorandum dated 24.06.2002 is enclosed hereto for perusal of Hon'ble Court as Annexure-3.

- 4.5. That it is stated that after receipt of the memorandum of charge- sheet dated 24.06.2002 the applicant submitted his reply in details on 04.07.2002, denying the charges and also explained in details the situations in his reply dated 04.07.2002.

A translated copy of the representation dated 04.07.2002 is enclosed hereto for perusal of Hon'ble Tribunal as Annexure-4.

- 4.6. That it is stated that the Assistant commissioner i.e. disciplinary authority vide order-bearing letter No. F.14-3/2002-KVS (GR)/11989-92 dated 23.07.2002 appointed Sri Ombir Singh, Principal, Kendriya Vidyalaya, Mohanbari as the inquiry officer as well as appointed Sri K. Das, Asst. Superintendent, K.V.S, RO, as the Presenting officer vide order dated 23.07.2002.
- 4.7 That the preliminary hearing was held on 19.08.2002. The applicant participated in the said inquiry proceeding however next date was fixed on 03.09.2002, list of documents requisitioned by the applicant also ordered for production by the respondents and applicant also directed to

Dhirendra Mishra, Srivastava.

inspect the said documents on 03.09.2002 which is evident from letter No. DP/DKS/2002-03/317 dated 21.08.2002. However on 03.04.2002 the applicant inspected those documents and after inspection, the applicant informed the inquiry officer in writing that those documents are not genuine and those are fabricated and false, further proceeding held on 04.09.2002 on a mere perusal of the daily order sheet dated 04.09.2002 it would be evident that no cross examinations were conducted in the said inquiry proceeding on 04.09.2002 to the listed witness relied upon by the disciplinary authority, interestingly applicant also not cross examined by the inquiry officer and list of documents relied upon by the disciplinary authority also not examined at all. It is mandatory in the inquiry proceeding under Rule 14 and 15 of the CCS (CCA) Rules 1965 to examine each and every witnesses by the prosecution side as well as list of documents also required to be examined for ascertaining the correctness of the charges. On a perusal of the order dated 04.09.2002 it is evident that only one or two questions was put by charged officials to the listed witnesses but there was no cross examination conducted on behalf of the disciplinary authority. There is not a single evidence available in the order sheet dated 04.09.2002 regarding the examination of the charged official by the inquiry officer, which is a must in terms of the relevant provisions of the rules. It is simply recorded in the order sheet on 04.09.2002 that Mr. M.K. Meena, TGT, Hindi, Kendriya Vidyalaya, Lunding made his deposition and confirm the letter dated 22.01.2002 addressed to the Principal and Mr. T. Ramaiah confirmed the contents of letter dated 13.01.2001 except the same there is nothing on record in the order sheet dated 04.09.2002 that the charges has been established against the applicant. On a further perusal of the order sheet dated 04.09.2002 it would be evident that neither report dated 20.11.2001 submitted by the Principal, K.V No-2 against the applicant, was examined in the said inquiry proceeding as referred in the list of documents in Sl. No.1 nor the document dated 13.09.2001 refereed in Sl. No. 2 of listed documents also

Dhirendra, Krishna, Srinivas

not examined, none of the listed witnesses were examined by and on behalf of the Disciplinary authority or by the inquiry officer and thereby in the instant inquiry proceeding the inquiry officer made a sharp departure from the mandatory provision of the rule and deliberately violated the provisions of the CCS (CCA) Rules 1965. It is categorically submitted that the charges leveled against the applicant vide memorandum dated 24.06.2002 has not been at all proved or established in the inquiry proceeding dated 04.09.2002 but the said proceeding is instituted for making an eye wash with a predetermination to impose penalty upon the applicant with an intention to cause loss and injury to the service prospect of the applicant.

Copies of the daily order sheet dated 19.08.2002, letter dated 21.08.2002 and order sheet dated 03.09.2002 and the order sheet dated 04.09.2002 are enclosed hereto for perusal of Hon'ble Tribunal as Annexure-5, 6, 7 and 8 respectively.

- 4.8 That it is stated that again there was a inquiry proceeding held on 20.12.2002 where the inquiry officer rejected the prayer for production of documents namely the report of preliminary inquiry documents and other documents namely staff meeting Register, Register of examination department, order book, whereby applicant was directed to take charge of the library and the order dated 22.11.2001, which was a listed documents referred in the list of documents contained in the Article of charges in Sl. No. 1 of the list of documents which is evident from the order sheet dated 20.12.2002 but no reason has been disclosed for rejection of the said prayer of the applicant. Interestingly on 20.12.2002 in the inquiry proceeding some discussion has been made on the article of charge No. I, II and III without examination of listed witnesses, listed documents relied upon by the disciplinary authority.

It is submitted that the Presenting Officer submitted his written brief where the presenting officer discussed about the resolution passed

Dhirendra, Krishna, Srivastava

by staff on 29.11.2001 and stated that the charge contained in Article I is established, surprisingly the resolution dated 29.11.2001 was never examined in the inquiry proceeding but the presenting officer in his written brief relied on the said documents which was not figured in the list of documents, so far charges leveled in Article No. II against the applicant where the presenting officer relied on the documents dated 22.01.2002 also not examined in the inquiry proceeding. However, Principal T. Ramaiah listed witness No. 1 also not examined by the inquiry officer in the inquiry proceeding. Similarly the statement made by presenting officer in his written brief where he relied on letter dated 13.11.2001 relating to Article of charge No. III but the same was also not examined in the inquiry proceeding as such the inquiry proceeding is perverse and the same is vitiated due to non examination of listed witnesses, listed documents and no cross examination was made by inquiry officer or the presenting officer with an attempt to established the charges leveled against the applicant in the inquiry proceeding. On a mere perusal of the inquiry proceeding it would be evident that not a single charge was proved against the applicant from the written brief submitted by the Presenting Officer on 08.01.2003, it is stated by the Presenting Officer that "these charges can be proved vide statements dated 22/01/2002 of state of witnesses". So far Article of charge No. II and further the Presenting Officer submitted regarding Article III of the charge sheet "all above allegations which can be proved by available listed documents (1 to 3)". Therefore it appears that the Presenting officer is also under bonafide belief that the charge has not been established in inquiry proceeding.

Copy of the daily order sheet dated 20.12.2002 and written brief of Presenting Officer submitted on 08.01.2003 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure-9 and 10 respectively.

Dharendra kishore Srivastava

4.9 That it is stated that the Asst. Commissioner and Disciplinary Authority vide his memorandum bearing letter No. 14-3/2002-KVS (GR)/18065-66 dated 28.03.2003 whereby inquiry report was served upon the applicant with a direction to submit his representation if any against the inquiry report. However the same has been served by the principal on 03.04.2003 vide office order bearing letter No. F.DKS/KV 1-2/2003-04/246 dated 03.04.2003. In the said inquiry report in Para 3, inquiry officer stated that listed documents were offered for inspection but not a single documents were examined in the inquiry proceeding which is evident from the daily order sheet of the inquiry proceeding, as such the said statement of the inquiry officer is contrary to the record of proceeding.

In Para 4 of inquiry officer's report it is stated that Presenting Officer has argued the case in support of charges and documents were placed in the inquiry proceeding but surprisingly not a single cross examination is made by the Presenting officer/Enquiry officer and also not examined any of the listed documents as such the said statements of Inquiry proceeding is contrary to the records.

The Inquiry Officer in para 6 of the Inquiry Report while ANALYSIS AND ASSESSMENT OF EVIDENCE is made the Inquiry Officer is relied upon on a document namely resolution dated 29.11.2001 which was never examined in the inquiry proceeding, therefore inquiry officer is not entitled to make any analysis or assessment of evidence so far document which was not figured in listed document and which was never examined in the inquiry proceeding. Similarly Inquiry officer relied upon the memorandum dated 22.01.2002 relating to Article of Charge No. II but the said documents also not examined in the inquiry proceeding as such his analysis and assessment of evidence is based upon the documents which were never examined in the inquiry proceeding. Therefore findings of the Inquiry officer that the Article of charge No. I and II has been proved that finding is contrary to the record of the inquiry

Dhirendra Ranishma Srivastava

proceeding and on that score alone the entire proceeding is liable to be set aside and quashed.

Copy of the Inquiry Report, Memorandum dated 28.03.2003 and office order dated 03.04.2003 are enclosed herewith for perusal of Hon'ble Tribunal and marked as Annexure-11, 12 and 13 respectively.

- 4.10 That your applicant submitted his representation against the inquiry report on 04.04.2004 to the Assistant commissioner. In the said representation the applicant categorically stated that in the contempt proceeding dated 29.11.2001 which is now made an instrument and used for victimizing the applicant where 15 signatures were obtained by the principal after threatening and forcing those teachers out of 31 teachers but the said documents is false and fabricated one of which is used for establishing the charge No.1. It is stated by the applicant that out of 5 witnesses only 3 witnesses were summoned in the inquiry proceeding and those selected three witnesses were taking some undue advantages from Shri T. Ramaiah as for example Mr. Meena's wife was appointed as a part time teacher at the mercy of the Principal Mr. T. Ramaiah and the Drawing Teacher was taking the additional charges of library as such those teachers came forward in support of T. Ramaiah, Principal. So, those teachers supported the allegations made against the applicant. But, those teachers were also not examined in the inquiry proceeding and applicant also raised certain other grounds in the aforesaid representations but the same was neither considered nor discussed in the inquiry proceeding but the order of penalty is passed on dated 29.04.2003 bearing letter no. 14-3/2002-KVS (GR)/3034-36 was passed against the applicant.

On a mere perusal of the penalty order dated 29.04.2003 it is evident that the order has been passed mechanically without application of mind, there is no discussion of evidence on the findings of the inquiry officer and also there is no discussion regarding the grounds raised by the

Dhivendran Kulshra Srivastava

applicant in his representation against the inquiry report. Moreover, there is no findings of the disciplinary authority whether the charges leveled against the applicant has been proved or not and on that score alone the order of penalty dated 29.04.2003 is liable to be set aside and quashed.

Copy of the representation dated 04.04.2003 and penalty order dated 29.04.2003 are enclosed herewith for perusal of Hon'ble Tribunal and marked as Annexure- 14 and 15 respectively.

- 4.11. That it is stated that the applicant preferred an appeal against the impugned order of penalty dated 29.04.2003 for review of the order of penalty dated 29.04.2003 vide representation appeal dated 22.04.2004, said appeal wrongly preferred before the Assistant Commissioner but the Assistant Commissioner being aware of the fact that he is not appellate authority and did not take any steps to forward the same to the appropriate authority with an ill motive. In the said appeal/representation the applicant interalia stated that the said appeal is still pending before Assistant Commissioner without any further action. In the penalty order dated 29.04.2003 there is no indication to prefer any appeal and also not advised that the appeal lies with the Commissioner of the Kendriya Vidyalaya Samity, since the applicant could not prefer appeal before appropriate authority due to ignorance of the procedure, it was the duty of the Asstt. Commissioner to forward the said appeal/representation to the appropriate authority, but in the instant case no such action was initiated. It is also not stated in the order of penalty that the applicant may prefer an appeal to Commissioner against the order of penalty.

That vide memorandum No. F 14-3/2002-KVS (GR)/21626 dated 24/29.03.2004 the assistant commissioner proposes to treat the period of suspension for non duty for all purposes such as increment, leave, pension and full pay and allowances and applicant was given liberty to file any representation against the said proposal. The applicant submitted a

Dhirendra Krishna. Srivastava

detailed representation on 22.04.2004 against the said proposal and interalia stated that none of the charges are correct and those are false and fabricated and as such does not warrant denial of increment, leave, pension and full pay and allowances, but the said representation was not considered at all by the Assistant Commissioner and passed the impugned order vide impugned memorandum issued under letter no. F.14-3/2002-KVS (GR)/3685-88 dated 14.06.2004 whereby the period of suspension w.e.f 29.01.2002 to 02.05.2003 has been treated as non-duty for all purposes such as increment, leave, pension and for full allowances. In the circumstances stated above the impugned order of penalty dated 29.04.2003 as well as the impugned order dated 14.06.2004 are liable to be set aside and quashed.

Copy of the memorandum dated 24/29.03.2004, representation/appeal dated 22.04.2004 and impugned order dated 14.06.2004 are enclosed hereto for perusal of Hon'ble Tribunal as Annexure-16, 17 and 18 respectively.

- 4.12. That it is stated that applicant vide his representation dated 20.10.2004 submitted an appeal addressed to the Commissioner, K.V.S, New Delhi through proper channel, against the penalty order dated 29.04.03 and also against impugned order dated 14.06.2004, whereby suspension period has been treated as non-duty, for all purpose. But surprisingly, the said appeal dated 20.10.2004 is returned by the Principal, K.V, Itanagar, without forwarding the same to the higher Authority, vide his letter bearing No. F.55/KVI-2/2004-05/1754 dated 09.12.2004, wherein it is stated that the appeal is returned, for further necessary action, from the end of the applicant. The applicant thereafter again submitted the above appeal through Principal, K.V, Tenga Valley on 17.02.05 and the same was thereafter forwarded by the Principal, K.V, Tenga Valley on 18.02.05 to the Commissioner, KVS, New Delhi. However, the said appeal is still pending with higher Headquarter and no communication is made by the higher

Dhirendra Lal Sharma, Srivastava

Headquarter in respect of the appeal pending with them. In such compelling circumstances the applicant has no other alternative but to approach before this Hon'ble Tribunal for redressal of his grievances, therefore, this Hon'ble Tribunal be pleased to pass the appropriate direction for setting aside the impugned memorandum dated 29.04.2003 and dated 14.06.2004.

In the circumstances stated above the Hon'ble Tribunal be pleased to set aside and quash the impugned order of penalty dated 29.04.2003, and impugned order dated 14.06.2004.

Copy of the appeal dated 17.02.2005 and letter dated 09.12.2004 are enclosed hereto for perusal of Hon'ble Tribunal as Annexure- 19 and 20 respectively.

4.13. That it is stated that it is a fit case for the Hon'ble Court to interfere with and protect the right and interest of the applicant by setting aside the impugned orders as stated above.

4.14. That this application is made bonafide and for the ends of the Justice.

5. Grounds for relief(s) with legal provisions

5.1 For that, none of the listed documents and listed witnesses, as well as charged official were examined, cross-examined in the inquiry proceeding as required under the rule.

5.2. For that, the relevant documents demanded by the applicant neither examined nor supplied to the applicant as such the said action vitiated the entire proceeding.

5.3 For that, on a mere perusal of the inquiry proceeding it would be evident that charges not been proved at all against the applicant.

5.4 For that, on a close perusal of the inquiry report, it would be evident that the inquiry is not on a firm belief that the charges has been proved against the applicant.

Dhivendra Kumar Srivastava

- 5.5 For that, the disciplinary Authority imposed the penalty without any discussion of evidence as required under the rule.
- 5.6 For that, none of the appeal preferred by the applicant against the two impugned orders neither replied nor considered by the Authority, even the appeal dated 20.10.2004 has been returned to the applicant by the Principal, K.V, Itanagar without forwarding the same to the Commissioner, as required under the rule, and on that ground alone the impugned orders are liable to be set aside and quashed.
- 5.7 For that, the inquiry proceeding has been conducted in total violation of relevant rule laid down in Rule 14 and 15 of the CCS (CCA) Rule 1965, therefore the impugned orders are liable to be set aside and quashed.
- 5.8 For that appeal of the applicant is still pending with the Authority.

6. Details of remedies exhausted.

That the applicant states that he has exhausted all the remedies available to him and there is no other alternative and efficacious remedy than to file this application.

7. Matters not previously filed or pending with any other Court.

The applicant further declares that he had not previously filed any application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of

Dhirendra Kishore, Srivastava

the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

8.1 That the Hon'ble Tribunal be pleased to set aside the impugned penalty order dated 29.04.2003 and order dated 14.06.2004 and further be pleased to direct the respondents to pass necessary consequential orders for restoration of the benefit.

8.2 That the Hon'ble Tribunal be pleased to direct the Authority to consider the appeal of the applicant in accordance with rule.

8.3 Costs of the application.

8.4 Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

During pendency of this application, the applicant prays for the following relief: -

9.1 That the Hon'ble Tribunal be pleased to observe that pendency of this application shall not be a bar to the respondents to grant the relief as prayed for.

10

This application is filed through Advocates.

11. Particulars of the I.P.O.

i)	I. P. O. No.	:	20 G J 33 885
ii)	Date of Issue	:	13. 6. 05
iii)	Issued from	:	G. P. O. Gowahati
iv)	Payable at	:	G. P. O. Gowahati

12. List of enclosures.

As given in the index.

Disseminated by Krishna Srinivasan

VERIFICATION

I, Shri Dhirendra Krishna Srivastava, Primary Teacher, Kendriya Vidyalaya, Tenga Valley, Arunachal Pradesh, aged about 54 years, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 14th day of June, 2005.

Dhirendra Krishna Srivastava



दूरभाष / Phone : 571797, 571 798
Fax : 571799

केन्द्रीय विद्यालय संगठन KENDRIYA VIDYALAYA SANGATHAN

क्षेत्रीय कार्यालय Regional Office
मालीगाँव चारियाली Maligaon Chariali
गुवाहाटी : 781 012 Guwahati : 781 012

पत्रांक :
No. F. : 13-15/94-KVS(GR)/1585-86

दिनांक :
Dated : 25.01.2002

OFFICE ORDER

Mr. P.S. Katal, Principal, Kendriya Vidyalaya, New Bongaigaon is hereby deputed to conduct the Preliminary/ fact finding enquiry on the complaint received from the Principal Kendriya Vidyalaya No.2 Itanagar against Shri D.K. Srivastava, PRT vide letter dated 22/01/2002 (Copy enclosed).

He is also directed to enquire about the earlier complain dated 03.12.2001 against Shri D.K. Srivastava (Copy enclosed).

The Katal will submit his detailed report along with all evidences about the fact within 10 days from the issue of this order for taking further necessary action.

To,
Shri P.S. Katal,
Principal
Kendriya Vidyalaya
New Bongaigaon.

(D. K. SAINI)
ASSISTANT COMMISSIONER

Copy to :-

1. The Principal, Kendriya Vidyalaya, No.2 Itanagar with a request to provide all necessary information to Mr. Katal in the aforesaid case for conducting the inquiry.

*Certified to be true copy
Mr. Ashwate*

**KENDRIYA VIDYALAYA SANGATHAN
(REGIONAL OFFICE)
MALIGAON CHARIALI, GUWAHATI**

F.13-15/94-KVS (GR)/

28.1.20002

OFFICE ORDER

Whereas a disciplinary proceeding against Shri D.K.Srivastava PRT Kendriya Vidyalaya No. 2, Itanagar, is contemplated.

Now, therefore, the undersigned, in exercise of the powers conferred by sub-rule (1) of Rule 10 of the Central Civil Services (Classification Control and Appeal) Rules, 1965, hereby place the said Shri D.K.Srivastava PRT under suspension with immediate effect.

It is further that during the period that this order shall remain in force the headquarters of D.K.Srivastava PRT should be Itanagar and the said Shri D.K.Srivastava shall not leave the headquarters without obtaining the previous permission of the undersigned.

(D.K.SAINI)

Assistant Commissioner

- Copy to
- 1 Shri D.K.Srivastava PRT Kendriya Vidyalaya No. 2 Itanagar.
 - 2 The Principal Kendriya Vidyalaya No.2 Itanagar.
 - 3 The Administrative Officer K.V.S. (GR) Guwahati.

*Certified to be true copy
Int-
Advocate*

KENDRIYA VIDYALAYA SANGATHAN
Regional Office,
Chaya Ram Bgawan, Maligaon Chariali,
Guwahati-12.

No.F.14-3/2002-KVS(GR)/10234-36

Dated : 24-6-2002

CONFIDENTIAL
BY REGISTERED POST *Specd 1008*

M E M O R A N D U M

The undersigned proposes to hold an Inquiry against Shri D.K. Srivastava, IRT, Kendriya Vidyalaya, No.2 Itanagar under Rule-14 of the Central Civil Services (Classification, Central and Appeal) Rules 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure.I) A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure.II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure.III) and (IV).

2. Shri D.K. Srivastava, IRT is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3. He is informed that an Inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore specifically admit or deny each article of charge.

4. Shri D.K. Srivastava, IRT is further informed that if he does not submit his written statement of defence on or before the date specified in Para-2, above or does not appear in person before the Inquiring Authority or otherwise fails or refuses to comply with the provisions of Rule-14 of the CCS(CCA) Rules, 1965 or the orders/directions issued in pursuance of the said Rule, the Inquiring Authority may hold the inquiry against him exparte.

5. Attention of Shri D.K. Srivastava, IRT is invited to Rule-20 of the Central Civil Services(Conduct) Rules 1964 under which no Government Servant shall bring or attempt to bring any political or outside influence to bear up on any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Shri D.K. Srivastava, IRT is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule-20 of CCS (Conduct) Rules 1964.

6. The receipt of the Memorandum may be acknowledged.

To
Shri D.K. Srivastava,
IRT (Under suspension)
Kendriya Vidyalaya, No.2 Itanagar.

S. S. Sehrawat
(S. S. SEHRAWAT)
ASSISTANT COMMISSIONER

Copy to :-

1. The Principal, Kendriya Vidyalaya, No.2 Itanagar with a request hand over the original copy to Shri D.K. Srivastava, under information to this office.
2. The Assistant Commissioner(Admn.), KVS(Hqrs.), New Delhi-16.
3. Guard File.

*Certified to be true
J. S. Srivastava*

STATEMENT OF ARTICLES OF CHARGES FRAMED
AGAINST SHRI D.K. SRIVASTAVA, FRT,
KENDRIYA VIDYALAYA, NO. 2,
ITANAGAR.

ARTICLE : I

That the said Shri D.K. Srivastava, FRT, Kendriya Vidyalaya, No.2 Itanagar, while working as such on 29th Nov.01 during the staff meeting Mr. Srivastava came late and sat on the table. In spite of verbal request of the Principal & other teachers he refused to sit in chair offered to him. He used unparliamentary words against the Principal and created an abnormal situation which compelled to call off the meeting.

Thus the said Shri D.K. Srivastava by his afforesaid acts has committed a misconduct which is violative of Rule 3(1), (i) (ii) and (iii) of CCS(Conduct) Rules 1964 as extended to the employees of KVS.

ARTICLE : II

That the said Shri D.K. Srivastava, FRT Kendriya Vidyalaya, No.2 Itanagar while working as such on 22-01-2002 during First period in front of students and teachers abused Principal & used unparliamentary words against Principal to create unhealthy atmosphere.

Thus the said Shri D.K. Srivastava has acted in the manner of unbecomming of a teacher of Kendriya Vidyalaya and thus violated Rule 3(1) (i) (ii) and (iii) of CCS (Conduct rules 1964) as extended to KVS employees.

ARTICLE : III

That the said Shri D.K. Srivastava while working as FRT at Kendriya Vidyalaya, No.2 Itanagar has violated the Code of Conduct for teachers of KVS under Article 55 Sub. Clause 21 & 34 of Education Code of KVS.

Thus Shri D.K. Srivastava has acted in the manner of unbecomming of a teacher of Kendriya Vidyalaya Sangathan and thus violated Rule 3(1) (i) (ii) and (iii) of CCS (Conduct) Rules 1964 as extended to KVS employees.

STATEMENT OF IMPUTATION OF MISCONDUCT OR MISBEHAVIOUR
IN SUPPORT OF THE ARTICLE OF CHARGES FRAMED
AGAINST SHRI D. K. SRIVASTAVA, IRT,
KENDRIYA VIDYALAYA, NO. 2,
ITANAGAR.

ARTICLE : I

That Shri D.K. Srivastava while functioning as IRT Kendriya Vidyalaya, No.2 Itanagar on 29th Nov.2001 came late to the staff meeting which was held in the Primary staff room (after the meeting had started) along with Mr. N.K. Arora. Mr. Arora occupied a chair but Mr. D.K. Srivastava sat on the table inspite of verbal request of Principal & other teachers/members of the meeting and refused to sit in the chair offered to him. In the meeting he abused and used unparliamentary words against the Principal and created an abnormal situation which compelled to call off the meeting.

Thus Shri D.K. Srivastava, IRT by his aforesaid acts has committed a misconduct which is violative of Rule 3(1) (i), (ii) and (iii) of CCS (Conduct) Rules 1964 as extended to the employees of KVS.

ARTICLE : II

That Shri D.K. Srivastava, IRT, Kendriya Vidyalaya, No.2 Itanagar while working as such on 22-11-2001, during the First period just after the morning Assembly, in front of students and staff, abused Mr. Ramaiah, Principal and used unparliamentary language against the Principal to create unhealthy atmosphere. Mr. D.K. Srivastava has also accused that the Principal terrorize the regular staff members of the school. It has also reported that Mr. D.K. Srivastava created unruly scenes in the vidyalaya office willfully, and passed bad remarks against the lady teachers on many occasions in the vidyalaya.

Thus Shri D.K. Srivastava has acted in the manner of unbecoming of a teacher of Kendriya Vidyalaya and committed a misconduct by violating Rule 3(1) (i), (ii) and (iii) of CCS (Conduct) Rules 1964 as extended to KVS employees..

ARTICLE : III

That Shri D. K. Srivastava, while working as PRT at Kendriya Vidyalaya, No.2 Itanagar has refused to accept the arrangement period and argued with the time table in-charge in an unhealthy way. His various acts of not accepting the assigned duties amounts to dereliction of duty and has violated the code of conduct for teachers of KVS under Article 55 Sub. Clause 21 & 34 of Education code of KVS.

Thus Shri D.K. Srivastava has acted in the manner of unbecoming of a teacher of Kendriya Vidyalaya Sangathan and thus violated Rule 3(1) (i), (ii) and (iii) of CCS (Conduct) Rules 1964 as extended to KVS employees.

**LIST OF DOCUMENTS BY WHICH THE ARTICLES OF CHARGES ARE PROPOSED
TO BE SUSTAINED AGAINST SHRI D.K. SRIVASTAVA,
PRT KENDRIYA VIDYALAYA, NO.2 ITANAGAR.**

1. Letter No.F.76/KVI-2/2001-2002/ dated 20-11-2001 -
Report submitted by the Principal, Kendriya
Vidyalaya, No.2 Itanagar alongwith letter
dated 13-11-2001 addressed to the Chairman, VMC,
Kendriya Vidyalaya, No.2 Itanagar.
2. Letter dated 13-09-2001, submitted by Shri A.K.
Mandal, PRT & Time table I/C.
3. Letter No.F.46/KVI-2/2001-2002/884 dated 22-1-2002
written by the Principal, Kendriya Vidyalaya, No.2
Itanagar, alongwith reports submitted by 5 teachers.

ANNEXURE : IV

STATEMENT OF WITNESSES BY WHICH THE ARTICLE OF CHARGES
ARE PROPOSED TO BE SUSTAINED AGAINST
SHRI D. K. SRIVASTAVA, FRT,
KENDRIYA VIDYALAYA
NO.2 ITANAGAR

1. Shri T. Ramaiah, Principal, Kendriya Vidyalaya,
No.2 Itanagar.
2. Shri M. K. Mina, TGT (Hindi).
3. Shri P. R. Laskar, Drawing Teacher.
4. Shri M. K. Niyogi, IET.

ANNEXURE : IV

STATEMENT OF WITNESSES BY WHICH THE ARTICLE OF CHARGES
ARE PROPOSED TO BE SUSTAINED AGAINST
SHRI D. K. SRIVASTAVA, PRT,
KENDRIYA VIDYALAYA
NO.2 ITANAGAR

1. Shri T. Ramaiah, Principal, Kendriya Vidyalaya,
No.2 Itanagar.
2. Shri M. K. Mina, TGT (Hindi).
3. Shri P. R. Laskar, Drawing Teacher.
4. Shri M. K. Niyogi, P.T.

Annexure-4

Translated from Hindi

Itanagar
04.07.2002

To.
The Assistant Commissioner
K.V.S (Guwahati Circle).

Sub: - With reference to the letter No. F.14-3/2002-KVS (GR)/10234-36 dated
24.06.2002.

Respected Sir,

With reference to your above-mentioned letter I beg to submit.

1. I and Sri Naresh Kumar Arora were called to come after beginning of the meeting with the intention to insult us when part time teachers and regular teachers were sitting and no chair was vacant in the meeting hall (as per instruction one chair was brought for PRT) Sri Naresh Kumar was offered one chair and he set on that and I was due to delay got no chair vacant and no part time or regular teacher offered me a chair therefore I stood for a longtime and then set on a table. When there were 56 teachers but chairs were insufficient. Meetings were regularly called in the library hall but on that particular day why meeting was called in the primary staff room, this is conspiracy with the intention to insult me. I myself is a primary teacher and Sri Naresh Kumar is a higher section teacher when meeting was jointly for both the primary and secondary teacher then without calling other teachers meeting was organised. Therefore the charges labeled against me are false, baseless and to insult me in a preplanned manner.

2. Charge No.2 is totally false. I am the teacher who is serving for long 29 years, how I can behave like that.

It is alleged that I have misbehaved with Principal in front of Class I students and teacher and used bad languages.

Respected Sir,

*Certified to be true copy
Int. Ashwini*

Just after the prayer (Annexure-II) and (Annexure-I) all students are supposed to go to their classes if all the students are supposed to go to their classes then how all the students come to hear discussion of me and principal, then all the teachers were also present there.

This is a conspiracy to cheat and insult a senior and respected teacher by other teachers who are instigated by the principal. The question regarding unholy scene in the office is a false allegation. There was only one person in the office to whom when I prayed for arrear salary, double HRA and arrear salary of July, 2001 but those were not paid to me till date on which the principal being annoyed made these false allegation.

Sir, I am aged about 51 years and belong from a respected family how I can misbehave with a lady who is like my daughter and this is a nasty attempt by the principal to damage my image. My behaviour towards all the lady teachers is gentle and polite. In the primary section there are 3 lady teachers and other lady teachers who may make allegation against me their children are reading in Medical or Engineering. Only the immature lady who has got the job by the grace of any person and doing the same can make this false allegation. The charges are totally false and I strongly deny those charges. The principal among the regular teachers always behave in unscientific manner and threaten the teachers.

3. The charge of non-compliance and non-performing of other duties which were given to me is totally baseless. Mr. Mandal who has made those allegation the wife of whom has got service by the grace of principal of this school and in future in the expectation of getting job has raised the charges to the principal. If this is so why the principal has not given any notice to me. It was difficult to stop Mr. Mandal what more unhealthy arguments could possible with Mr. Mandal. Those duties which were entrusted upon me I performed them well, e.g. Supervision of classrooms and in this duties also principal engaged new (part time, adhoc) teachers to leave me in the primary staff room on 22.01.02 and indicated don't worry about Srivastava's writing I am with you.

With regard to Annexure III and I, I beg to submit that I shall furnish proof to inquiry officer. Regarding II question is that Shri Mandal's time table was not given to staffs. No such information is given regarding such time table.

Respected sir,

Please furnish all the documents regarding charges labeled against me so that I can present myself with all facts and documents rightly before inquiry officer.

Sir, please clarify that the relationship witnesses and principal.

Question is that principal gave a job to the wife of the then TGT Hindi Mr. M.K. Mina, therefore Mr. Mina was compelled due to this and gave false statement through the students.

I shall also tell inquiry officer the reason behind the full support of Sri P.R. Laskar, Drawing Teacher and Sri M.K. Neogi, PET towards the Principal.

Yours sincerely

Sd/- Illegible

Sri D.K. Srivastava.
P.R.T
Star Complex
Room No.3
Itanagar- 791 111.

DAILY ORDER SHEET

(1)

Office Order No. F.14-3/2002-KVS (GR)/11989-92 dated 23.7.2002 issued by Assistant Commissioner, Kendriya Vidyalaya Sangathan, Guwahati Region, appointing me as the Inquiry Officer under Sub rule (2) of Rule 14 of CCS (CCA) Rules 1965, in the enquiry being held against Mr. D.K. Srivastava (PRT) was received on 31.7.2002. The Charged Official has been directed to appear before me on Monday the 19.8.2002 at 11.00 a.m. in my chamber for attending the preliminary hearing. He has also been asked to furnish the particulars of the Defence Assistants, if any, proposed to be nominated by him, so as to reach me by 14.8.2002. Copy of this notice has been endorsed to all concerned.

Amogh
INQUIRY OFFICER

(2)

No name to work as Defence Assistant was received from Charged Official so in absence of non furnishing the particulars of Defence Assistant, no intimation was sent.

(3)

PROCEEDINGS OF PRELIMINARY HEARING

1. The proceedings were taken up by me in my office on 19.8.2002 at 11.00 a.m. where the following were Present:-

- | | |
|-------------------------|----------------------|
| (i) Mr. K.Das | - Presenting Officer |
| (ii) Mr. D.K.Srivastava | - Charged Officer |

The C.O. when questioned by the I.O. admitted to have received the charge sheet and to have understood the charges levelled against him.

2. The P.O. as directed appeared before me with all the listed documents in original which were offered for inspection to C.O. After inspection thereof the C.O. admitted the documents mentioned at sl 1(1-5 pages), sl 2(page 1) and sl 3 (1-6 pages) as authentic. He also admitted that on 29.11.2001 and 22.1.2002 he was

contd.....p/2

*Certified to be true copy
for
Admission*

on duty, but he refuted the remaining facts and genuineness of the remaining documents. ✓

3. The C.O. also told that he does not want to propose the name for Defence Assistant and that he would plead his case in person.
4. The photo copies of the statements of State witnesses were supplied to the C.O. on his request. (listed documents)
5. The C.O. was directed to give a list if any, for the discovery or production of any document which is in the possession of KVS is not mentioned in Annexure III to the charge sheet but is relevant to his defence. While doing so, he shall indicate the relevance of the documents required by him and the custodian authorities thereof. The C.O. submitted the list of additional documents required.
6. The CO. was also directed to submit a list of Defence witness proposed to be examined on his behalf. The C.O. told that he does not want to furnish the names of defence witness.
7. The case will be taken up for regular hearing on 4.9.2002 at K.V.No. I Itanagar. On that day evidences on behalf of the DA shall be adduced. *Submitted*
8. The list of additional documents by the C.O. has been scrutinised. Documents mentioned at sl No. 1,3,4,8(1) and 5 (if any) have been requisitioned from the custodian authorities. The documents mentioned at sl 2,6,7,8(ii), 9,10 and 11 are not considered relevant to the defence of the C.O. as they are not likely to throw any light on the incident/allegation under inquiry. Hence request for their requisition is regretted. The permitted additional documents will be inspected on 3.9.2002 at 11.00 a.m. at K.V.No.I Itanagar.
9. Summons for state witness are being sent to them separately

[Signature]
PRESENTING OFFICER

[Signature]
17/8/02
CHARGED OFFICER

[Signature]
17/8/02
INQUIRY OFFICER

क्र ८२५६९ (पी एन्ड टी)

केन्द्रीय विद्यालय

मोहनबाड़ी, ए० एफ० एस०

पो आ० : मोहनबाड़ी एयर फ़िल्ड

जिला : डिब्रुगढ़ (असम)

पिन : ७८६०९२



82569 (P&T)

KENDRIYA VIDYALAYA**MOHANBARI A.F.S.**

P.O. Mohanbari Air Field

Dist. Dibrugarh (Assam)

Pin. 786 012

Ref. No. F : DP/DKS/2002-03/313

Date : 21.8.2002

To,
The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Guwahati Region,
Guwahati-12

Subject:- Departmental Inquiry under Rule 14 of C.C.S. (C.C.A.)
Rules, 1965, against Shri D.K.Srivastava, PRT

Sir,

I have been appointed as the Inquiry Authority under your Order No. F.14-3/2002-KVS(GR)/11989-92 dated 23.7.02 in the above mentioned case. Shri D.K.Srivastava, PRT has desired the following documents to be procured for use by him for his defence. On considering his request, I hold that the undermentioned documents are relevant to the defence of the Charged Officer. You are, therefore, requested to take necessary steps to make the documents available to Shri Kanu Das who is the P.O. in the case. The documents may be made available to the P.O. by 2.9.2002 as he has to offer the same for inspection to the C.O. on 3.9.2002 at 11.00 a.m. at K.V.No.I Itanagar.

PARTICULARS OF THE DOCUMENTS REQUISITIONED

- i) Arrangement Register - 2001-02
- ii) Vidyalaya Time-Table - 2001-02
- iii) Order Book, appointing Shri A.K.Mandal as the Time-Table I/C
- iv) Application of Shri P.R.Laskar, Drg.Tr stating that Shri D.K.Srivastava is not the I/C of Primary section.
- v) Document/application (if any) submitted on the basis of which the allegation ("created untuly scene", "passed bad remarks against lady teachers") have been levelled.

Yours faithfully,

(OMBIR SINGH)
PRINCIPAL

K.V., A.F.S., Mohanbari
Inquiry Officer

Copy to:-

1. Shri D.K.Srivastava, PRT. He is directed to inspect permitted documents on 3.9.02 at 11.00 a.m. at K.V.No.I Itanagar.
2. Shri Kanu Das, P.O. He will kindly collect the permitted documents from the Custodian authority and offer the same for inspection to the C.O. on the appointed date, time and place.
3. Shri T.Ramaiah, Principal, K.V.No.II, Itanagar for necessary action.

(INQUIRY OFFICER)

Copy to be true copy
for
Adm. file

DEPARTMENT OF THE PROCEEDING AGAINST SHRI D.K. SRIVASTAVA PREHELD ON 03.09.2002 AT 1100 HRS AT K.V. NO.1 HANAGAR, NAQBARDIGOO

In pursuance of the decision taken by the enquiry officer by his letter dt. DP/DKS 2002-03 319/02 dt. 01.09.2002. The following additional documents presented by the under signed for inspection to the C.O. in presence Dr. R. Jana, Principal, K.V. No.1 Hanagar, Naqbardigoo.

1. Arrangement Register for the year 2001-02 of H. having pages 01 to 81.
2. Vidyalaya Fin. V. (2001-02) (copy only copy).
3. Duty schedule for the year 2001-02 regarding appointment of Shri. A.K. Mandal. Time Table for H. (copy only).
4. Application written by Shri. A.K. Mandal, Drawing Teacher.
5. Documents Application for the year 2001-02 in which the allegation (created unfairly scene passed bad remarks against lady teachers) have been leveled.

- a) Statement of Shri. A.K. Mandal.
- b) Single letter of Shri. A.K. Mandal to the Principal.
- c) Affidavit of Shri. A.K. Mandal.
- d) Copy of the letter of Shri. A.K. Mandal to the Principal.

यह सब का हस्ताक्षर मैंने ही किया है
किसी ने नहीं किया है
गिराफत है

K. D. S.
3/9/02

(K. D. S.)
PRESENTING OFFICER

(D.K. SRIVASTAVA)
CHARGE OFFICER

[Signature]

30/8/02

Copies to

1. Principal, K.V. No.1 Hanagar, Naqbardigoo.

Certified to be true copy
[Signature]
Rajawat

(K. D. S.)
PRESENTING OFFICER

DATE: 04.09.2002.

DAILY ORDER SHEET

The P.O. has reported that C.O. carried out the inspection of additional documents on 03rd September, 2002 at K.V. No.I, Itanagar, Naharlagun as demanded by him during preliminary hearing on 19th August, 2002 at K.V. , Mohanbari. During the hearing the C.O. submitted three representations. In one written statement/representation the C.O. has raised the points about the validity of some inspected documents, in another he made submissions about non payment of TA bill in connection with hearing on 19.08.2002 and in third written statement he has asked for inspection of some additional documents. As the witnesses are present so the schedule proceedings will continue and the I.O. will take appropriate decision on the written statements submitted by the C.O. later on

Regular Hearing

(1) The proceedings were taken up as scheduled in the presence of P.O. and C.O. All the listed documents were brought on record.

- (a) Mr. T. Ramaiah, Principal, K.V. No.II, Itanagar.
- (b) Mr. M.K. Niyogi, PET, K.V. No.II, Itanagar.
- (c) Mr. P.R. Laskar, Dr. Teacher, K.V. No.II, Itanagar
- (d) Mr. M.K. Meena, TGT(Hindi), K.V. Lumding.

All these above mentioned four witnesses who are summoned for tendering their evidences today are present.

State Witness - I - Mr. T. Ramaiah, Principal, K.V. No.II, Itanagar.

Mr. T. Ramaiah, confirmed the contents in his letter dt. 13.11.01 addressed to the Chairman, K.V. No.II, Itanagar and forwarded to the Assistant Commissioner, KVS(GR).

During the cross examination the C.O said that he could not take charge of the two Almiarhs containing books for Primary sections because peons were not provided by the Principal to carry them and no place was told where they may be kept. The Principal Shri. T. Ramaiah referred to his orders in the order book and told that the C.O. did not carry out the instructions to take charge deliberately. The C.O. submitted that all the charges are false fabricated and the it is a case of conspiracy.

State Witness - II - Mr. M.K. Mina, TGT(Hindi), K.V. Lumding.

Mr. M.K. Meena, TGT(Hindi), K.V. Lumding also made his deposition and confirmed the contents mention in the letter dt. 22.01.2002, addressed to the Principal, K.V. No.II, Itanagar.

During cross examination the following question was asked.

Mr. D.K. Srivastava - What were you doing in the Library ?

*Delivered to be filed by
Jat
Advocate*

4/9/02

*31/9/02
I.O.*

*4/9/02
C.O.*

Mr. M.K. Meena – I came to the students in the Library.

During the cross examination Mr. D.K. Srivasgava, submitted that he will cross examined the witness later on. However he was given the copy of his statement of state witnesses on 19.08.2002. He only submitted all the charges are false, fabricated and managed.

State Witness – III – Mr. P.R. Laskar, Dr. Teacher, K.V. No.II, Itanagar.

Mr. P.R. Laskar, Dr. Teacher also made his deposition and confirmed the contents mention in the letter dt. 08.11.01 and 22.01.2002, address to the Principal, K.V. No.II, Itanagar.

During the cross examination Mr. P.R. Laskar, the following questions was asked by Mr. D.K. Srivastava.

Q. What unparliamentary languages I used ?

A. (By Mr. P.R. Laskar) – The words mentioned in my letter dt. 22.01.2002 are unparliamentary.

Mr. D.K. Srivastava, submitted all the charges are fabricated and false.

State Witness – IV – Mr. M.K. Niyogi, PET, K.V. No.II, Itanagar.

Mr. M.K. Niyogi, PET also made his deposition and confirmed the contents mention in the letter dt. 22.01.2002 addressed to the Principal, K.V. No.II, Itanagar.

During the cross examination the following question was asked by the C.O.

Q. What paper were you reading in the first period in the Library ?

A. Mr. M.K. Niyogi – I was reading Nav Bharat Times, News Paper.

The C.O. submitted that the witnesses made their deposition due to their individual interests.

During the cross examination the I.O. also asked some questions to the state witnesses to find out the truth.

leolar
11/9/02
P.O.

(Sri)
11/9/02
I.O.

leolar
11/9/02
C.O.

MOHANBARI

DAILY ORDER SHEET

47

No. F, Conf/DP/2002-03 dt 20.12.02

The proceedings were taken up as scheduled in the presence of Presenting Officer & Charged Official.

Reference to the representation dated 4.9.02 submitted by Mr. D.K. Srivastava for requisition of some more documents, the action is as under:-

- 1) The copy of the Report of Preliminary Inquiry cannot be summoned as per the existing Rules.
- ii) The documents referred in para 2, 3, 4 & 5 are not relevant to any of the charges levied so no need to produce the registers.

ARTICLE I

Mr. D.K. Srivastava submitted that he alongwith Mr. N.K. Arora of course reached the Staff Meeting late. He refuted the charge that he sat on the table. He submitted that due to non availability of chair he sat on the stool. He refused to accept the charges levelled.

The Presenting Officer submitted that there is enough evidence on record to ~~prove~~ prove that charges levelled are true and referred to the Resolution passed by the staff about this incident.

ARTICLE II

Mr. D.K. Srivastava raised the point that in Annexure I Article II the date of the incident has been mentioned as 22.01.02 whereas in Annexure II Article II, the date of incident has been mentioned as 22.11.2001. He said that it is contradictory itself and hence the charges levelled are automatically false.

The Presenting Officer submitted that the date of incident is 22.01.02 as mentioned in Annexure I Article II and there is typing mistake of date in Annexure II, Article II where it has been mentioned as 22.11.2001.

ARTICLE: III

Mr. D.K. Srivastava submitted that he took the arrangement period. He also submitted that the Principal and Mr. Mandal wrote the submissions on the Arrangement Register afterwards and they are in separate ink. It is all fabricated.

The Presenting Officer submitted that the Charged Official did not take the arrangement period. He submitted that it is evident from the statement of Mr. Mandal and Arrangement Register.

The Charged Official finally submitted that he has already stated/submitted what he can say in his defence.

The Inquiry Officer asked the Presenting Officer to submit the brief within 10 days for further necessary action.

20/12/2002
PRESENTING OFFICER

(K. D. S.)

[Signature]
CHARGED OFFICER INQUIRY OFFICER

*Certified to be true
Advocate*

WRITTEN BRIEF OF PRESENTING OFFICE IN DEPARTMENTAL
INQUIRY AGAINST SHRI D. K. SRIVASTAVA, PRT (U/S),
KENDRIYA VIDYALAYA NO.2, ITANAGAR

The undersigned has been appointed as Presenting Officer, vide order No.F.14-3/2002-KVS(GR)/11993-96, dated 23/07/2002 to present the case pertaining to Shri D.K. Srivastava, PRT (U/S) Kendriya Vidyalaya No.2 Itanagar.

Shri D.K. Srivastava, PRT (U/S) Kendriya Vidyalaya, No.2 Itanagar has been charge-sheeted vide letter No.14-3/2002-KVS(GR)/10234-36, dated 24/6/2002 and Proposed to hold inquiry against him for various charges. After having gone through all the stages of Inquiry proceedings the undersigned presents the following Brief on Inquiry Proceedings against Shri D.K. Srivastava.

REGARDING ARTICLE I OF THE CHARGE-SHEET.

The Charged Officer Shri D. K. Srivastava, while functioning as PRT at Kendriya Vidyalaya No.2 Itanagar came late in the Staff meeting alongwith Mr. N.K. Arora which was held in the Primary Staff room on 29th Nov'2001. Mr. N.K. Arora sat on the Chair but Mr. D.K. Srivastava, sat on the table inspite of repeated verbal request of Principal & other teachers, Presented in the meeting he did not sit on the Chair offered to him. In the meeting he abused and used unparliamentary words against the Principal and created an abnormal situation in the said meeting which compelled to call off the meeting.

Upon examination & Cross examination during the inquiry Proceedings and based on evidences on record including resolution passed by the staff on 29/11/2001 about the incident established the charges.

This act on the Part of Shri D.K. Srivastava constitute a misconduct, insubordination and thus violated rule 3, 1, (1) (ii) & (iii) rule 1964 as extended to KVS employees. There are sufficient evidence to take disciplinary action against Shri D.K. Srivastava, PRT(U/S) Kendriya Vidyalaya, No.2 Itanagar.

REGARDING ARTICLE II OF THE CHARGE-SHEET

Shri D. K. Srivastava, while functioning as PRT at Kendriya Vidyalaya, No.2 Itanagar on 22-01-2002 during the First Period (Just after the morning Assembly) in front of students and staff he abused Mr. T. Ramaiah, Principal, Kendriya Vidyalaya, No.2 Itanagar and used unparliamentary words against the Parincipal and created ^{an} unhealthy atmosphere. Shri D.K. Srivastava also created unruly scenes in the Vidyalaya office

Contd..2/-

*Certified to be true copy
for
Advocate*

(...2...)

willfully and passed bad remarks against the lady teachers on many occasions in the Vidyalaya.

All the state witnesses has confirmed the facts as stated above during the examination and Cross examination of the Proceedings.

This act on the Part of Shri D.K. Srivastava constitutes a misconduct leading to unbecoming behaviour of KVS employees and violated rule 3,1 (i) (ii) and (iii) of CCS rule 1964 as extended to the KVS employees. These charges can be proved vide statements dated 22/01/2002 of state witnesses.


REGARDING ARTICLE III OF THE CHARGE-SHEET

That Shri D. K. Srivastava, while functioning as PRT at Kendriya Vidyalaya No.2 Itanagar has refused to accept the arrangement period allotted to him on 11/09/2001. It is evident from the statement of Mr. A.K. Mandal Drawing Teacher & Time bale, I/C, Arrangement Register and report submitted by the Principal Kendriya Vidyalaya No.2 Itanagar vide his letter dated 13/11/2001. His acts of not accepting the assigned duties amounts to the negligence of his duties, insubordination leading to unbecoming behaviour of KVS employees and violated rule 3,1 (i) (ii) & (iii) of CCS rule 1964 as extended to the KVS employees.

All these acts amount to misconduct and violation of conduct rules. On the strength of the above it is believed that the charged Officer is involved in all above allegations which can be proved by the available listed documents (1 to 3).

DATED :

The 8th Jan. '2003.


(KANU DAS)
PRESENTING OFFICER
AND ASSISTANT SUPERINTENDENT
KENDRIYA VIDYALAYA SANGATHAN
REGIONAL OFFICE
GUWAHATI.

*Certified to be true copy
For
Signature*

Shri
D.K. Srivastava, PRT
KV, No. 2 Itanagar Arunachal Pradesh

1. INTRODUCTION: The Asstt. Commissioner, KVS (GR) in his order No. F14-3/2002-KVS (GR)/11993-96 dated 23-7-02 appointed me as the Inquiry Officer under Rule 14 of the CCS (CCA) Rules 1965, to hold an inquiry against Shri D.K. Srivastava, PRT KV, No. 2 Itanagar. By the another order of the same date he appointed Shri K Das Asstt. Suptt. KVS, R.O., Guwahati as the presenting officer to present the case in support of the charges.

The preliminary hearing was held on 19-8-02 and was attended by the charged officer and the P O. The defendant did not propose the name for defence Assistant and pleaded his case in person. The Inspection of documents was done on 19-8-02 and of additional documents in the 1st week of Sept. 2002. The PO relied on 05 exhibits P-1 to P-5 P-1 (page 1-5), P-2 (page-1), P-3 (page 1-6), P-4 (page-1), P-5 (page-1) and 4 witnesses namely Shri T. Ramaiah, Principal, KV, No. 2 Itanagar, Mr. M.K. Mina (TGT Hindi) Mr. P.R. Laskar Drawing Tr. and Mr. M.K. Niyagi, PET. The names of these witnesses have been mentioned in Annexure IV to the charge sheet memorandum. The defendant did not produce any witness in support of his defence. The PO and the CO have submitted their final written briefs. The briefs submitted by them have been placed in the relevant folder below:-

2. CHARGES FRAMED AND INQUIRED INTO:- The charges framed against Shri DK Srivastava vide Annexure I to the charge sheet memorandums are reproduced below:-

ARTICLE-I

That the said Shri DK Srivastava, PRT Kendriya Vidyalaya No. 2 Itanagar, While working as such on 29 th Nov. 01 during the staff meeting Mr. Srivastava came late and sat on the table. In spite of verbal request of the Principal & other teachers he refused to sit in chair offered to him. He used unparliamentary words against the Principal and created an abnormal situation which compelled to call off the meeting.

Thus the said Shri DK Srivastava by his aforesaid acts has committed a misconduct which is violative of Rule 3(1), (i) (ii) and (iii) of CCS (Conduct) Rules 1964 as extended to the employees of K V S.

ARTICLE-II

That the said Shri DK Srivastava, PRT Kendriya Vidyalaya No. 2 Itanagar While working as such on 22-01-02 during first period in front of students and teachers abused Principal & and used unparliamentary words against Principal to create unhealthy atmosphere.

That the said Shri DK Srivastava has acted in the manner of unbecomming of a teacher of Kendriya Vidyalaya and thus violated Rule 3(1), (i) (ii) and (iii) of CCS (Conduct rules 1964) as extended to KVS employees.

Cont.....P.....2/

*Certified to be true copy
Advocate*

ARTICLE : III

That the said Shri D.K. Srivastava while working as PRT at Kendriya Vidyalaya, No.2 Itanagar has violated the Code of Conduct for teachers of KVS under Article 55 sub. Clause 21 & 34 of Education Code of KVS.

Thus Shri D.K. Srivastava has acted in the manner of unbecomming of a teacher of Kendriya Vidyalaya Sangathan thus violated Rule 3(1) (i) (ii) and (iii) of CCS (Conduct) Rules 1964 as extended to KVS employees.

3. FACTS AND DOCUMENTS ADMITTED:- All the listed documents were offered for inspection. After inspection the C O admitted that they are written by the witnesses mentioned in Annexure IV to the charge sheet memorandum but he refuted the contents mentioned therein and submitted that allegations are false and fabricated.

4. CASE OF THE DISCIPLINARY AUTHORITY:- The P O has argued the case in support of the charges more or less on the same lines as Annexure II. He submitted all the listed documents which have been placed as documentary exhibits (P 1 to P 3). He also produced additional documents as required by the C O and they have been placed as P-4 and P5. He also produced 4 witnesses as mentioned in Annexure IV to the charge sheet memorandum for cross examination on 4-9-02 and all the witnesses also confirmed the contents mentioned in their written statements which are placed as P1 to P3. In support of the article I to the charge sheet memorandum the PO submitted a resolution which was passed by 31 staff members condemning the behaviour of the C O and this has been placed as P 4.

5. DEFENCE ARGUMENTS OF THE CHARGED OFFICER:- The Charged officer has submitted his defence through written statements /briefs. His defence plea is briefly summarised as under: He submitted that it is true that he reached in the staff meeting slightly late and due to non availability of the chair sat on the vacant stool (written brief dated 25-1-03 page 1) and due to this the Principal felt it bad and postponed the staff meeting. He further submitted that due to the pressure of the Principal the staff members put their signatures on the resolution dated 29-11-02. He submitted that resolution has been passed against him in a planned way under the guidance of the Principal.

In respect of article II, he refuted the charge and submitted that all the witnesses of the prosecution side have been given undue benefits by the Principal and due to this they have submitted their witnesses and it is all false.

In respect of article III to the charge sheet memorandum, he submitted that he took the class assigned to him for arrangement and his signatures are very much thereon the register of arrangement. He submitted that the Principal has

Cont....P.....3/

written his remarks on the arrangement register later on and I/C time table Primary section Mr. Mandal was pressurised by the Principal to submit the false complaint about me. He submitted his defence through his written brief also.

6. ANALYSIS AND ASSESSMENT OF EVIDENCE:- From the assessment of the evidence, both documentary and oral the following points emerge:-

ARTICLE-I : A staff meeting was held on 29-11-02. It is a admitted fact from the statements submitted by both the sides and Mr. D.K. Srivastava has submitted that due to non availability of the chair, he sat on the vacant stool and due to this the Principal felt bad and postponed the staff meeting. He submitted that the resolution dated 29-11-02 condemning his behaviour ^{was} passed in a planned way under his guidance.

30 Staff members have passed a resolution wherein it has been stated that Mr. Srivastava was offered a chair but he did not listen and behaved in improper way. In my opinion this evidence produced by the prosecution side has weight.

ARTICLE-II : The Article pertains to the alleged incident that took place on 22-01-02 during Ist period that Mr.D.K. Srivastava abused the Principal and used unparliamentary words. Through his submissions Mr. D.K. Srivastava raised the point that the date of alleged incident as mentioned in Annexure I to the charge sheet memorandum is 22-01-02 wherein in annexure II to the charge sheet memorandum it has been mentioned as 22-11-02, so it is contradictory itself and hence the charges levelled are automatically false.

By seeing the documents it seems that due to typing mistake it has been mentioned as 22-11-2001 in annexure II while it is 22-01-2002 in annexure I and in all the statements of witnesses by which the article of charge is proposed. Thus the contention of the charged officer is not correct. The three eyewitnesses Mr.M.K. Mina (TGT, Hindi), Mr. P.R. Laskar (Drawing Tr.) and Mr. M.K. Niyogi (PET) appeared for the cross examination and through their depositions on 4-9-02 they confirmed what they have said in their written statements dated 22-01-02 on the basis of evidences and witnesses, it seems true that the behaviour of Mr. D.K. Srivastava was objectionable.

Cent.....P.....4/

57

ARTICLE-III . This article of charge pertains that Mr. D.K. Srivastava refused to accept the arrangement period and argued with the I/C time table in an unhealthy manner on 11-9-2001. Mr. Srivastava has submitted that he signed the arrangement register and took the period.

Seeing the arrangement register it is clear that signatures of Mr. D.K. Srivastava are against his arrangement period. No other document/witness has been submitted by the prosecution side that he did not take the period.

7. FINDINGS OF THE INQUIRY OFFICER ^{ON} THE CHARGES FRAMMED AGAINST D.K. SRIVASTAVA:- In the light of assesment of the evidence and determination of the points made in previous paragraphs may findings are that article I and II of the charge sheet are proved.

The article III of charge sheet has not been established.

MOHANBARI


(OMBIR SINGH)

Dated 17-3-03

Inquiry Officer

Principal
Sardar Vidyalya
Air Force Station
Mohanbari



KENDRIYA VIDYALAYA SANGATHAN

केन्द्रीय विद्यालय संगठन

क्षेत्रीय कार्यालय
मालीगांव चारिआली
गुवाहाटी : ७८१ ०१२

Regional Office
Maligaon Chariali
Guwahati - 781 012

Phone : 2571799
: 2571798
Tele Fax : 2571797

पत्रांक : 14-3/2002-KVS(GR)/ 18665 - 66
दिनांक : 28-03-2003

BY SPEED POST/CONFIDENTIAL

MEMORANDUM

WHEREAS, Shri D.K. Srivastava, PRT, Kendriya Vidyalaya, No.II Itanagar was charge sheeted under Rule 14 of the CCS(CCA) Rules, 1965 as extended to the employees of Kendriya Vidyalaya Sangathan, vide Memorandum of even no. dated 24-06-2002.

AND WHEREAS, Shri D.K. Srivastava having denied the charges, Shri Omibir Singh, Principal, Kendriya Vidyalaya, Mohanbari was appointed as the Inquiry Officer to enquire in to the charges framed against the said Shri Srivastava vide order dated 23-07-2002. The said Inquiry Officer has completed the inquiry and submitted the report.

NOW, THEREFORE, the Disciplinary Authority before taking a suitable decision in this case would like to provide an opportunity to the charged Officer to make any representation which he may like to do in writing to the Disciplinary Authority on the report of the Inquiry Officer, a copy of which is enclosed herewith.

Accordingly, Shri D. K. Srivastava is directed to submit his representation on the Inquiry Report within fifteen days of receipt of this Memorandum, failing which it will be presumed that Shri Srivastava does not wish to make any written representation or submission and further action will be taken as per CCS(CCA) Rules, 1965.

To
✓ Shri D. K. Srivastava,
PRT
Kendriya Vidyalaya, No.II
Itanagar.

(S. S. SEHRAWAT)
ASSISTANT COMMISSIONER &
DISCIPLINARY AUTHORITY

Encl : As above.

Copy to :-

1. The Principal, Kendriya Vidyalaya, No.II Itanagar with a request to send this Memorandum to the person concerned under proper acknowledgement.

*Certified to be true copy
for
Advocate*

- 41- By Land Annexure-13

KENDRIYA VIDYALAYA NO.2, ITANAGAR

F.DKS/KVI-2/2003-04/ 246

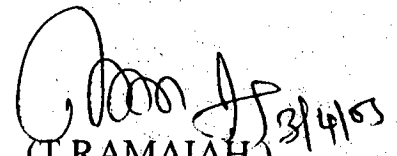
Dated: 03/04/2003


OFFICE ORDER

Enclosed herewith is a Memorandum No.F.14-3/2002-KVS(GR)/18065-66 dated 28-03-2003, in original, together with its enclosures, addressed to Shri D.K. Srivastava, PRT. (under suspension), by the Assistant Commissioner, KVS., Guwahati Region, for needful action.

Encl: As above

To
Mr. D. K. Srivastava, PRT.,
Room No.3, Star Complex,
Vivek Vihar,
Itanagar.


(T.RAMAIHA)
PRINCIPAL


Principal
Kendriya Vidyalaya No.2
Itanagar

Copy for information to:

The Assistant Commissioner, KVS (GR)

Certified to be true copy
for
A

Translated from Hindi.

Annexure-14

From: -

04.04.2003.

Sri D.K. Srivastava,
Primary Teacher (Suspended)
KV. No.2, Itanagar.

To.

Respected Assistant Commissioner,
KVS (Guwahati Region)

Sub: - Reference to your letter No. 14-3/2002-KVS (GR)/18065-66 dated
28.03.2003.

Respected Sir,

With reference to the above I beg to submit that: -

1. Charge No. I: - According to inquiry officer in the condemnation proceeding against me there are 31 signatories among them 15 are part time/ad-hoc teachers. Out of 30 rest 16 signed under threat and pressure. Due to condemnation my prestige and reputation in the society has badly effected and relying on this every body taking it that I am the real guilty. Sir, you kindly give justice.
2. Charge No. II: - According to Principal's letter dated 22.01.02 the incident took place in the first Period of School. It was written that there are 5 witnesses then why only 2 were called for? If the incident (as charged against) took place in front of students and staffs then why no children or other teachers witnesses were taken, only the teachers who are taking undue advantage are taking into consideration.

Respected sir,

Your are an efficient administrator and educationist. I have been suspended for long 15 months. Considering my responsibilities towards the family and my age etc. sympathetically decide on my matter. I shall remain ever grateful to you.

*Certified to be true copy
Sd/-
D.K. Srivastava*

Yours sincerely
Sd/- Illegible
D.K. SRIVASTAVA,
Primary Teacher,
KVS, No.2.
Itanagar- 791 111.

- 43 -
KENDRIYA VIDYALAYA SANGATHAN
GUWAHATI REGION

Annexure - 15

No.F.14-3/2002-KVS(GR)/ 3034 - 36

Dated : 29-04-2003

BY SPEED POST/CONFIDENTIAL

ORDER
- - - - -

WHEREAS, Shri D.K. Srivastava, PRT, Kendriya Vidyalaya No.2 Itanagar was chargesheeted under Rule-14 of Central Civil Services (Classification, control & Appeal) Rules, 1965 as extended to the employees of the Kendriya Vidyalaya Sangathan.

WHEREAS, Shri Ombir Singh, Principal, Kendriya Vidyalaya, Mohanbari was appointed as Inquiry Officer and Shri K. Das, Asstt. Supdt. KVS, Regional Office, Guwahati as Presenting Officer vide Order dated 23-07-2002.

WHEREAS, the Inquiry Officer has submitted a report. A copy of the Inquiry Report was Provided to the said Shri D.K. Srivastava for making representation in terms of Rule-15 (IA) of CCS(CCA) Rules, 1965 vide Memorandum dated 28-03-2003.

WHEREAS, in sum and substance among Proved charges under mentioned charges are of serious in nature :-

- (1) He came late in the meeting and sat on the table Inspite of verbal request of the Principal and other teachers he refused to sit in chair offered to him. He used unparliamentary words against the Principal and created an abnormal situation which compelled to call off the meeting.
- (2) On 22-11-2001 during first period in front of students and teachers he abused Principal, He used unparliamentary words against the Principal and created an unhealthy atmosphere.

WHEREAS, on a careful consideration of the records of the case, findings of Inquiry Officer and also taking into account the facts and circumstances of the case, the undersigned is satisfied that Shri D.K. Srivastava has committed a misconduct under Rule 3(1) (i) (ii) & (iii) of CCS (Conduct) Rules 1964 as extended to the employees of KVS.

NOW, THEREFORE, the undersigned in his Capacity as Disciplinary Authority orders imposition of penalty of withholding of next two increments of pay for the period of two years upon Shri D.K. Srivastava, which will have the effect of Postponing the future increments of his pay.

The undersigned, hereby revokes the order of Suspension of Shri D.K. Srivastava and posts him to Kendriya Vidyalaya, Tengavalley. The revocation of his Suspension will be effective from the date of his joining at Kendriya Vidyalaya, Tengavalley.

✓ To
Shri D.K. Srivastava
PRT
Kendriya Vidyalaya
No.2 Itanagar

Copy to :-

1. The Principal, Kendriya Vidyalaya, No.2 Itanagar.
2. The Principal, Kendriya Vidyalaya, Tengavalley.

S. S. Sehrawat
(S. S. SEHRAWAT)
ASSISTANT COMMISSIONER
Asstt. Commissioner

Kendriya Vidyalaya Sangathan
Regional office, Guwahati

*Certified to be true copy
Sd/-
Sd/-*



KENDRIYA VIDYALAYA SANGATHAN

केन्द्रीय विद्यालय संगठन

क्षेत्रीय कार्यालय
मालीगांव चारिआली
गुवाहाटी : ७८१ ०१२

Regional Office
Maligaon Chariali
Guwahati - 781 012

Phone : 2571799
: 2571798
Tele Fax : 2571797

दिनांक :
Dated : 24-03-2004
29

पत्रांक
No. F. : 14-3/2002-KVS(GR)/21626

MEMORANDUM

WHEREAS, the Penalty of withholding of next two increments of Pay for the Period of two years was imposed upon Shri D.K. Srivastava, PRT, Kendriya Vidyalaya, Tengavalley, which will have the effect of Postponing the future increments of his pay vide this office order dated 29-04-2003 on the ground of his misconduct under Rule 3(1)(1) (ii) & (iii) of CCS(Conduct) Rules, 1964 as extended to the employees of Kendriya Vidyalaya Sangathan.

NOW, the undersigned hereby proposes to treat the period of suspension of Shri D.K. Srivastava as non duty for all purposes such as increment leave, pension etc., and full pay & allowance shall not be paid but no recovery will be made from the subsistence allowances already paid for the said suspension period.

Shri D.K. Srivastava is hereby given an opportunity to make such representation as he may wish against the proposal.

If, he fails to submit his representation within 20 days of the receipt of this Memorandum, it will be presumed that he has no representation to make and orders will be passed against Shri Srivastava ex-parte.

The receipt of this Memorandum should be acknowledged by Shri D. K. Srivastava.

To

✓ Shri D. K. Srivastava,
PRT
Kendriya Vidyalaya
Tengavalley

(Through the Principal, Kendriya Vidyalaya,
Tengavalley).

S. S. SEHRAWAT
(S. S. SEHRAWAT)
ASSISTANT COMMISSIONER

Certified to be true copy
S. S. Sehwati

Annexure-17

Translated from Hindi

To.

The Assistant Commissioner
Kendriya Vidyalaya Sangathan,
Guwahati Circle.

Date: 22.04.2004

(Through Principal K. V. Tengavelly)

Sub:- With reference to Letter No. F 14-3/2002-KVS (GR)/ 21626 dated
24/29.03.2004.

Sir,

With reference to above I beg to submit as follows: -

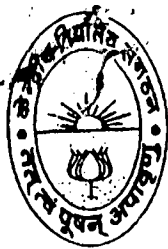
1. I have been charged with misconduct which is totally false and baseless. In this regard I have submitted many application through the Principal.
2. My suspension period has been treated as non-duty period, in this regard I submit that I am a less paid PRT. Due to non receipt of arrear salary I am struggling to lead my family, kindly sympathetically treat my suspension as duty period.
3. In this regard I again request that if my case is reconsidered and I am discharged from the charges labeled against me I shall remain ever grateful to you.

Yours sincerely

Sd/- Illegible

(D.K. SRIVASTAVA)
PRT
K.V. Tengavelly.
A.P.

*Certified to be true
Jain
Dehra doh*



KENDRIYA VIDYALAYA SANGATHAN

केन्द्रीय विद्यालय संगठन

क्षेत्रीय कार्यालय
मालीगांव चारिआली
गुवाहाटी : ७८१ ०१२

Regional Office
Maligaon Chariali
Guwahati - 781 012

Phone : 2571799
2571798
Tele Fax : 2571797

Annexure-18

पत्रांक
No. F.: 14-3/2002-KVS(GR)/ 3685 — 88

दिनांक :
Dated: 14-06-2004

REGD./CONFIDENTIAL

MEMORANDUM

WHEREAS, the penalty of with-holding of next two increments of pay for the period of two years was imposed upon Shri D.K. Srivastava, PRT, K.V. Tengavalley, which will have the effect of post-poning the future increments of his pay vide this office order dt.29/4/2003 on the ground of his misconduct under Rule 3(1)(i)(ii) & (iii) of CCS(Conduct) Rules, 1964 as extended to the employees of KVS.

WHEREAS, Shri D.K. Srivastava was given an opportunity to make such representation as he may wish against the proposal to treat the period of suspension as non duty for all purposes vide this office Memorandum dt.24/29.03.2004.

AND WHEREAS, the said Shri D.K. Srivastava has submitted his representation dt.22/4/2004 against the aforesaid proposal.

NOT THEREFORE, the undersigned after considering the facts and circumstances of the case and the submission of Shri Srivastava against the proposal has come to the conclusion that the said suspension period may be treated as non duty for all purposes such as increment, leave, pension etc, and full pay & allowance shall not be paid but no recovery will be made from the subsistence allowances already paid for the said suspension period and orders accordingly.

To,

Shri D.K. Srivastava,
PRT, KV, Tengavalley,
Through the Principal KV, Tengavalley.

Copy to :-

1. The Principal, KV, Tengavalley.
2. The Principal, KV, M.2 Itanagar.
3. The Audit Account Officer, KVS(GR).

*Certified to be
True copy*

*for
Adroet*

(U. H. KHANAREY)
ASSISTANT COMMISSIONER

ASSISTANT COMMISSIONER

To

The Commissioner,
K.V.S, New Delhi.

(Through Proper Channel)

Sub: - An appeal against the impugned order of penalty dated 29.04.2003 and also against the order dated 14.06.2004.

Respected Sir,

Most humbly and respectfully I beg to say that a Memorandum of Chargesheet was issued against me vide letter No. F. 14-3/2002-KVS (GR)/10234-36 dated 24.06.2002, whereby it was proposed to hold an enquiry under Rule 14 of the CCS (CCA) Rules 1965 on the alleged ground of misbehaviour with the Principal, K.V.S No.2 Itanagar and thereby creating unheathy atmosphere in violation of Rule 3 (1) (i) (ii) and (iii) of CCS (Conduct) Rules 1964 as extended to K.V.S employees.

I have denied the allegations labeled therein and thereafter enquiry officer was appointed to enquire the matter under Rule 14 of CCS (CCA) Rules 1965. I have participated in the enquiry proceeding and extended my best co-operation with the enquiry officer. However, the enquiry was conducted in total violation of the relevant provision laid down in Rule 14 and 15 of CCS (CCA) Rules 1965. On completion of the enquiry, enquiry report was served upon me. After receipt of the enquiry report I have submitted a detailed reply denying the contention raised by the enquiry officer in the enquiry report, which may kindly be perused by your good self in the records of the enquiry proceeding. The Assistant Commissioner vide its order issued under letter No. F. 14-3/2002-KVS (GR)/3034-36 dated 19.04.2003 imposed penalty of withholding of two increments of pay for the period of two years upon me which will have the effect of postponing the future increments of my pay.

But the penalty order suffers from the following infirmities: -

- (1) That none of the listed documents were examined in the enquiry proceeding as required under the relevant provision of law.
- (2) That the enquiry officer as well as the disciplinary authority relied upon the staff resolution dated 29.11.2001 which was not figured in the list of documents but it is alleged that the charges containing in Article No. (1) and (2) has been established and proved on relying upon the unlisted documents dated 29.11.2001 which is not sustainable in the eye of law.
- (3) For that no listed witnesses including the undersigned were cross-examined in the enquiry as required under the Rule.

*certified to
be true copy
seen
Advocate*

- (4) For that penalty order has been issued which is not based on records and it is a case of no evidence.
- (5) For that on a mere perusal of the enquiry proceeding it would be evident that no guilt has been proved against me and there is no evidence recorded in the enquiry proceeding against the undersigned establishing the guilt.
- (6) For that the disciplinary authority failed to discuss the evidence while passing the order of penalty dated 29.04.2003 as required under the Rule.
- (7) For that document prayed by me neither produced nor examined in the enquiry proceeding.
- (8) For that no documents were examined in the inquiry proceeding as required under the law.

Due to above infirmities the impugned order of penalty dated 29.04.2003 is liable to be set aside and quashed.

In view of the aforesaid facts and circumstances stated above the consequential order issued vide Memorandum No. 14-3/2002-KVS (GR)/3685-88 dated 14.06.2004, whereby period of suspension which was treated as non-duty also liable to be set aside and quashed.

PRAYER

Hon'ble Commissioner, K.V.S, New Delhi be pleased to set aside the impugned penalty order bearing letter No. F. 14-3/2002-K.V.S (GR)/ 3034-36 dated 29.04.2003 as well as impugned order issued under Memorandum bearing letter No. F. 14-3/2002-K.V.S (GR)/3685-88 dated 14.06.2004 be set aside and quashed.

Yours faithfully

Date: 20.10.04

(D.K. SRIVASTAVA)
PRT, K.V
Tengavelly, A.P.

63.

KENDRIYA VIDYALAYA, NO.2, ITANAGAR,
ARUNACHAL PRADESH:- 791111.

No.F.55/ KVI-2/2004-05/ 1754

Dated:- 09.12.2004.

To

✓ Sh.D.K.Srivastava,
Primary Teacher,
Kendriya Vidyalaya,
Tenga Valley (A.P)

Sub:- Return of representation – regarding.

Sir,

The appeal preferred by you, addressed to the Commissioner, KVS(HQ), New Delhi is returned herewith for further necessary action at your end itself.

Thanking you,

Yours faithfully,

Enclo:- Representation 03 copies.

A. K. Katiyar
(A.K.KATIYAR)

प्रजापति PRINCIPAL.
के. H. S. No.-2
ईटांगार/Itanagar

certified to be True copy
Jas
Solomon