

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 764 of 2005

Jabalpur, this the 26th day of August, 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

Vinod Kumar Shrivastava,
S/o. late Shri M.K. Shrivastava,
Aged about 48 years, R/o. C/o.
Shri J.B. Yadav, JBC Sun Rise School,
Devri Khurd, Bilaspur (Chhattisgarh). Applicant

(By Advocate – Shri S. Paul)

Versus

1. Union of India, through : General Manager,
South Eastern Central Railway, Bilaspur
(Chhattisgarh).
2. Divisional Railway Manager, South
Eastern Central Railway, Divisional Office,
Bilaspur (Chhattisgarh).
3. Senior Divisional Personal Officer,
South Eastern Central Railway, Bilaspur
Division, Bilaspur (Chhattisgarh).
4. Divisional Engineer (Settlement-II),
Office of the Senior Divisional Engineer
(Co-ord), South Eastern Central Railway,
Bilaspur Division,
Bilaspur (Chhattisgarh).
5. Assistant Engineer, South Eastern
Central Railway, Shahdol. Respondents

(By Advocate – Shri M.N. Banerjee)



ORDER (Oral)

By M.P. Singh, Vice Chairman -

By filing this Original Application the applicant has claimed the following main relief :

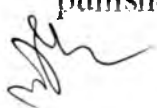
“(ii) set aside the show cause notice dated 12.8.2005/Annexure A-1 with all consequential and ancillary service benefits.”

2. The brief facts of the case are that the applicant was initially appointed as a Casual Labour in the Mixed High School, Shahdol on daily rated basis vide order dated 4.9.1981. He was granted temporary status and was granted regular Central Pay Scale vide order dated 5.1.1984. Later on he was also designated as a Primary Teacher. While working as such he was served with a charge sheet dated 13th December, 1996, wherein it was alleged that he has submitted fake certificate of B.Ed degree to get undue benefit of regularization on the post of Primary School Teacher. After denial of the charges by the applicant the respondents have conducted an enquiry against him to investigate into the charges leveled against him. Thereafter the disciplinary authority vide order dated 4.9.1999 (Annexure A-3) has passed the following punishment on him:

“v) The undersigned, therefore, in exercise of the powers conferred on him, hereby imposes the following punishment against Sri V.K. Shrivastava, Asstt. Casua-l, Teacher, SERMH School, Shahdol.

“The basic pay of Sri V.K. Shrivastava, Asstt. Casual Techer, SERMH School, Shahdol is reduced to the initial stage pay of Rs. 2550/- in the time scale Rs. 2550/- - 3200/- (Vth. P.C.) with the directive that this reduced pay shall progress by Annual increments and so on as if a new entrant.”

The contention and main grievance of the applicant ^{are} ~~is~~ that, now a notice has been issued to him dated 12th August, 2005 (Annexure A-1) by the respondents for the same misconduct for which he has already been punished vide order dated 4.9.1999 (Annexure A-3). This action of the



respondents is not permissible under any rules. Hence, this Original application is filed.

3. Heard the learned counsel for the parties and carefully perused the pleadings and records.

4. The learned counsel for the applicant submitted that he has been issued with the show cause notice dated 12th August, 2005 (Annexure A-1) for the same misconduct for which he has already been punished vide order dated 4.9.1999 (Annexure A-3). ² ~~Two~~ ^{not 2} penalties can be imposed for the same misconduct under any rules.

5. On the other hand the learned counsel for the respondents has submitted that the applicant has not been issued the show cause notice in continuance to the earlier misconduct for which he has been punished vide order dated 4.9.1999 (Annexure A-3) but it is for a different misconduct of submitting false documents with regard to his B.Ed degree. Therefore, this show cause notice should not be quashed and they should be allowed to proceed against the applicant in accordance with the notice issued to him dated 12th August, 2005 (Annexure A-1).

6. We have given very careful consideration to the rival contentions made on behalf of the parties and we are of the considered view that ends of justice would be met if we direct the respondents ² ~~to~~ ^{to} not take any action against the applicant against the show cause notice issued to him dated 12th August, 2005 (Annexure A-1) if it is for the same misconduct for which he has already been punished vide order dated 4.9.1999 (Annexure A-3). We do so accordingly. The applicant cannot be punished twice for the same misconduct committed by him and for which he has already been punished. However, the respondents are at liberty to proceed against the applicant for any misconduct committed by him other than ² ~~for~~ the one ^{for} he has been punished vide order dated 4.9.1999 (Annexure A-3).

7. With the above directions the Original application stands disposed of. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

"SA"

पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....

प्रतिलिपि अग्रे धित:-

- (1) सचिव, उच्च न्यायालय और एडमिनिस्ट्रेशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/कु.....के काउंसल
- (3) प्रत्यर्पित श्री/श्रीमती/कु.....के काउंसल
- (4) कार्यपाल, को.प.अ., जबलपुर न्यायपीठ

सूचना एवं आवश्यक कार्यवाही हेतु
उप रजिस्ट्रार

S. Paul
Advocate
Jabalpur
M. K. Bhatnagar
Advocate
Jabalpur

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29/8/05