

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.298/03

Jabalpur, this the 6 th day of August, 2004.

C O R A M

Hon'ble Mr.Sarweshwar Jha, Administrative Member
Hon'ble Mr.Madan Mohan, Judicial Member

V.P.Dubey
S/o Shri Narbada Prasad Dubey
R/o Village Mahota, P.O.Baseda
P.S.Shahpur, Tehsil Hanumana
Dist. Rewa (MP) ...Applicant

(By advocate Shri P.N.Dubey)

Versus

1. Principal
Kendriya Vidyalaya
Sidhi Sidhi (MP)
Shri P.D.Chaturvedi)
2. Assistant Commissioner
Kendriya Vidyalaya Sangathan
Jabalpur Region
KV G.C.F.Y.Campus
Jabalpur.
3. Education Officer
Kendriya Vidyalaya Sangathan
Jabalpur Region
K.V.G.C.F.Y.Campus
Jabalpur (M.P) ...Respondents

(By advocate Shri M.K.Verma)

O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant seeks the following reliefs:

- (i) To issue writ in nature of writ of certiorari for quashing Annexure A1 dated 31.5.02, Annexure A2 order dated 30.12.02 and whole departmental enquiry leading to punishment of applicant by declaring as null and void and in violation of rule of natural justice;
- (ii) Direct holding of inquiry against the conduct of respondent No.1 (Shri Chaturvedi) who has misused his official position to punish his opponent (applicant);
- (iii) To reinstate the applicant with back wages and heavy cost of Rs.50,000 against respondent No.1 payable from his pocket.

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2. The brief facts of the OA are that the applicant has been working in Group 'D' post of peon under respondents for quite some time. He was the office bearer of a local union of Group 'D' employees of Vidyalaya. The applicant was asked to work in the bungalow of respondent No.1 in the night which was refused by the applicant. The dispute between Principal and applicant went right upto police level. Applicant was charge sheeted vide memo dated 7.12.2001 with four charges (Annexure A7). Neither the list of witnesses nor the list of documents relied upon or the details of allegations made against the applicant were incorporated in the memo of charge. The witnesses and documents were suddenly produced before enquiry officer for which the applicant was deprived of reasonable opportunity to defend himself. The applicant submitted his defence in writing to the EO who submitted his report dated 18.2.2001 (Annexure A10). The EO has recorded his findings as charge No.1 & 2 proved, charge No.3 not proved and charge No.4 partly proved. The findings of EO and the memo of charge are vague in nature as the same do not give details of allegations with material facts/documents and as such there is violation of rule of natural justice. The applicant is punished very harshly which is in violation of the principles of natural justice and the order of the appellate authority is without jurisdiction and guidelines of rule 27 of CCS (CCA) Rules and without application of mind. The punishment is retaliatory and harsh in nature. Hence this OA is filed.

3. Heard the learned counsel for both parties. It is argued on behalf of the applicant that the applicant along with other three Class IV employees moved an application to the Principal of the Kendriya Vidyalaya on 21.6.01 regarding their grievance and further the applicant himself moved an application to the Assistant

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Commissioner of Kendriya Vidyalaya Sangathan, Jabalpur Division, against the Principal and one criminal complaint was also filed against the Principal Shri Chaturvedi and three other persons by the applicant under Sections 109, 166, 167, 177, 182, 420, 467, 468, 500 and also under Sections 294, 232 and 506 of IPC. Learned counsel of the applicant argued that there were allegations before against the Principal of the Vidyalaya but the impugned order is passed by the very same Principal and charge No.2 directly relates to the Principal himself, in which the applicant is reported to have misbehaved the Principal, teachers and other employees. While there was a charge against the Principal himself, he should not ~~act~~ as a judge and should not have issued the impugned order. No relevant documents were supplied to the applicant and even the list of witnesses was given to the applicant. As the applicant raised his voice against the exploitation of the Principal the applicant is punished out of ~~vengence~~ and without any evidence or reasonable ground.

4. In reply, it is argued on behalf of the respondents that the charge sheet issued against the applicant relates the month of September 2001 while the alleged criminal complaint against the Principal is filed in the month of February 2002 i.e. much after the alleged incident and the joint ~~application~~ dated 21.6.01 (Annexure A3) is not a complaint but it is in the nature of a representation and the alleged complaint of the applicant Annexure A4 is again after the alleged incident of 4th September 2001. ~~Hence~~ these documents do not support the version of the applicant because all these documents relate to a period after the alleged incident. Copies of relevant documents were furnished to him and due opportunity of hearing was also given to him. The presenting officer examined 12 witnesses. As regards charge No.2 against the applicant,

it relates not only against the Principal but also against the teachers and other staff members. The counsel further argued that there were no complaints against the Principal by teachers, class IV employees etc. The departmental enquiry conducted by the respondents is perfectly under Rule 14 of CCS (CCA) Rules, 1965 and the punishment imposed on the applicant is also proper. The applicant has disturbed the functioning of the educational institution by misbehaving with his superior, he being a union leader but on that capacity he has no right to misbehave with his superiors and other staff members. Hence the respondents have not committed any irregularity or, illegality in conducting the departmental proceedings and in passing the impugned orders.

5. After hearing the learned counsel for both parties and careful perusal of the records, we find that the applicant was given due opportunity of hearing. He submitted his representation against the report of the enquiry officer and also preferred an appeal against the order passed by the disciplinary authority. Copies of relevant documents including the charge sheet were given to him. Charge Nos. 1 & 2 are fully proved; charge No.3 is not proved and charge No.4 is partly proved. Hence this is not a case of no evidence and the Tribunal cannot re-apprise the evidence. There is no allegation against the enquiry officer on the part of the applicant and the enquiry officer has given his report exonerating the applicant from charge No.3 and partly exonerating him from charge No.4 but he has found charges 1 & 2 fully proved and established and charge No.4 partly proved. Charge No.2 is very serious in nature in which it mentioned that the applicant misbehaved with the Principal,

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teachers and other employees and the charges are proved and established by the report of the enquiry officer.

Such types of activities of misbehaviour with superiors and staff members of an institution, particularly an educational institution, affect the smooth functioning of the institution and it affects the whole atmosphere.

6. After considering all the facts and circumstances of the case, we are of the opinion that the respondents have not committed any irregularity or illegality in conducting the departmental proceedings and we have perused the impugned orders passed by the disciplinary authority dated 31.5.02 and by the appellate authority dated 30.12.02 which are speaking orders.  This OA has no merits and hence it is dismissed.

(Madan Mohan)
Judicial Member

(Sarweshwar Jha)
Administrative Member

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पृष्ठांकन सं ओ/न्या.....जवलपुर, दि.....
पुतिलिपि अर्थे शित:-

(1) संघिन, उच्च न्यायालय बार एसोसिएशन, जबलपुर
 (2) अखेदक श्री/ श्रीमती/ श्रुति के काउंसल
 (3) प्रसारी श्री/ श्रीमती/ श्रुति के काउंसल
 (4) दंसाराम, टोपेश्वर, जबलपुर न्यायालय
 संघिन एवं आद्यथर्व दंसारामी हेतु

उप रजिस्ट्रार 16-8-५५

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