

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

....

original Application No.811/2001

Jabalpur, this the 29th day of July, 2004

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

Pramod Mahajan s/o Sh. Laxman, Mahajan,
Aged about 36 years,
R/o Bambhada, Tehsil Burhanpur,
Distt. Khandwa, Madhya Pradesh.

...Applicants

(By Advocate: Shri N.S. Kale, Sr. Adv. with Ms. Sonali Sahu)

-versus-

1. Navodaya Vidyalaya Samiti, an autonomous organisation under Ministry of Human Resources Dev., Department of Education, Indira Gandhi Stadium, New Delhi.
2. Jawahar Navodaya Vidyalaya, Manpur, Tehsil Mahu, Distt. Indore, Madhya Pradesh.
3. Director, Navodaya Vidyalaya Samiti, Indira Gandhi Stadium, New Delhi.
4. Deputy Director, Navodaya Vidyalaya Samiti, Regional Office, 150, Zone-II, M.P. Nagar, Bhopal (MP).
5. Union of India, Ministry of Human Resource Development through its Secretary, New Delhi.

...Respondents

(By Advocate: Shri O.P. Namdeo)

O R D E R

By Madan Mohan, Member (Judicial)-

By filing this original application, the applicant has sought the following main reliefs:

- 1) to quash the Annexure P-9 dated 29.3.2001 and order dated 30.7.2001 (Annexure P-11).
2. The brief facts of the case are that the applicant was appointed as Post Graduate Teacher in physics on 10.10.1992



by the Navodaya Vidyalaya Samiti. The said post is equivalent to the post of Lecturer in Govt. School of Service. The applicant was appointed on a probation of two years. In view of the excellent performance, he was declared to have completed the probation successfully on 16.1.1994. A committee was constituted to verify earned leaves of all the teachers, by examining their service books. The applicant was a member of the said committee alongwith two others. While examining the service books found that Smt. Vijaya Munge, one of the teachers, has not offered history and geography in B.A. Examination, which was an essential qualification for appointed as a Trained Graduate Teacher. It was also found that she has passed 10th at the age of ten years. Unfortunately, for the applicant, she suspected that it was the applicant who brought this fact to the notice of the committee. The fact showed that she has improperly obtained the appointment and this may result in her termination. Due to this, she started bearing a grudge against the applicant who had an excellent record of service. She heded a conspiracy against the applicant. She got a report made by Ku. Malti Patidar, one of the student of class 12th that while taking computer class, the applicant misbehaved with her on 19.1.2001. The applicant had taken classes from 19.1.2001 to 24.1.2001. The Principal was compelled to give a notice to the applicant, asking him to explain about the allegation alleged to have been made by Kum. Malti patidar. The applicant submitted his explanation vide Annexure-A7 stating that in the computer class room there were other lecturers besides the students. The Principal also asked the teachers to inform him if any such incident, as alleged, took place. Incident as alleged was inherently improbable. The Principal submitted his report to the Deputy Director saying that Smt. Vijaya Munge had engineered the whole thing. It is because of her that the atmosphere was surcharged and, therefore, recommended that the applicant and Smt. Vijaya Munge should both be transferred.

Accordingly both were transferred by Deputy Director of Bhopal Region. The applicant was asked to meet the Deputy Director at Bhopal who served him the termination order dated 29.3.2001. No enquiry whatsoever, was made against the applicant he was not even afforded any opportunity of defending himself. There was a blatant violation of principles of natural justice. As very serious allegations were made against the applicant it, was, therefore, all the more necessary to hold a regular enquiry as provided in the CCS(CCA) Rules. Hence, the action of the respondents in terminating the applicant is wholly arbitrary and illegal. Even if any enquiry was made/behind the back of the applicant. He was neither given any copy of the enquiry report which resulted into denial of principles of natural justice. Therefore, order of termination is void, illegal and liable to be set aside. It is apparent from the incident which took place on 26.2.2001 Kum. Malti Patidar was found in the company of two boys, who were outsiders and belonged to her native place. Smt. Jyoti Jai Mishra, reported this matter to the Principal, who thereupon, called Malti Patidar and those two boys. Kum. Malti Patidar made a statement before the Principal that these ~~two~~ boys were her brothers whereupon Smt. Mishra reported the statement saying that the behaviour of these boys was such as would indicate that they were not brothers. The Principal informed the police station, Manpur, who took the boys to the police station. The boys thereupon made a statement to the police that Malti Patidar used to call them. The girl when interrogated by the police, made the statement that boys used to harass her. The parents of the girl were thereaft~~e~~ called, who took away the girl. It is learnt that the girl was thereaft~~e~~ married away within about a month.

2.1 The Deputy Director relied on the amendment made in the service condition for dispensing with regular enquiry and principles of natural justice. After the summary enquiry if deemed that the applicant is guilty of moral turpitude



involved offences or exhibition of immoral sexual behaviour to the students, he can be terminated from the service by giving one month's notice or three months' pay and allowances. In such situation the procedure prescribed can be dispensed with. None of the above conditions were followed while issuing the impugned order (A/9). Being aggrieved by the said order dated 29.9.2001 the applicant filed an appeal (A/10) to the Chairman, N.V.S. Human Resources Dev., Ministry, Govt. of India, New Delhi. The said appeal was also forwarded to the Director, JNV Samiti, New Delhi; Deputy Director, JNV, Regional office Bhopal and Principal, JNV, Manpur Teh. Mhow, Distt. Indore. Till date the Chairman, N.V.S., New Delhi has not decided the said appeal of the applicant. However, the Director, JNV, New Delhi has passed the order dated 30.7.2001 and (A/11) dismissed the appeal of the applicant, without application of mind. There is absolutely no material on the basis of which the said conclusion recorded by the authority could have been reached. The findings are perverse. The orders passed by the authorities concerned are illegal and contrary to rules and regulations and deserve to be quashed and set aside.

3. Heard the learned counsel for the parties.

4. It is argued on behalf of the applicant that one Smt. Vijaya Munge one of the teachers suspected that the applicant has brought the alleged facts to the notice of the Committee hence she started conspiracy against him and subsequently she got a report made by Km. Malti Patidar, one of the students of class 12 which was absolutely false and baseless and without enquiry the applicant was ordered to be terminated from service, without following the prescribed procedure contained in CCS(CCA) Rules. It is further argued that the Deputy Director has dispensed with the regular enquiry while such power can only be exercised by the Director only after satisfying certain criteria prescribed therein. Hence, the order regarding dispensing with the regular enquiry and passing the impugned penalty is absolutely wrong, illegal and



contrary to the rules. It is also argued that even summary enquiry was not conducted and the applicant was not given any proper opportunity of hearing before coming to such a harsh conclusion, by passing the impugned order. Aggrieved by that the applicant preferred an appeal which was also dismissed without application of mind and without mentioning any reason for justifying the order whereas the applicant was an employee of a very excellent career and by the act of the respondents his whole career is spoiled on false and baseless allegations made by one Malti Patidar, whose herself character was doubtful as alleged in the O.A. It is also not out of place to mention that the appeal preferred by the applicant to the Chairman, has not been decided by the Chairman so far whereas the same has been decided by the Director concerned on 30.7.2001. The whole proceedings conducted by the respondents and action taken by them are in violation of rules and the procedure and also against the principles of natural justice. In this view of the matter, it was argued that the impugned orders passed by both the authorities are liable to be quashed and set aside being illegal and contrary to rules and procedure.

5. In reply, learned counsel for the respondents argued that the committee recommended that suitable provisions should be made to ensure that the students of N.V. are properly protected. It culminated into the notification dated 20.12.1993, which was duly approved by the Executive Committee of the NVS headed by the Minister for Human Resources Development as Chairman of the Samiti. The notification inter-alia provided that whenever Director is satisfied after much summary enquiry as he deems proper and practicable in the circumstances of the case that any member of the Navodaya Vidyalaya is prima facie guilty of moral turpitude involving exhibition of immoral sexual behaviour towards any student he can terminate the services of that employee by giving due notice. In such cases, procedure prescribed for holding enquiry for imposing major penalty in accordance with CCS(CCA) Rules, 1965 as



applicable to the employees of the NVS shall be dispensed with provided that the Director is of the opinion that it is not expedient to hold regular enquiry on account of serious embarrassment to the student or his/her guardians or such practicable difficulties. The Director shall record in writing the reasons under which it is not reasonable to hold such enquiry and he shall keep the Chairman of the Samiti informed of the circumstances leading to such termination of services. The notification dated 20.12.1993 was subject matter of appeal before the Hon'ble Supreme Court in Civil Appeal No. 1425/96 decided on 30.9.1996 in case of AvinashNagar vs. NV.S. & Ors. where in similar circumstances the services of Avinash Nagar were dispensed with and it was contended that no enquiry was necessary and the provision of dispensation of total enquiry was upheld by the Apex Court (R/2) . Hence, the O.A. is liable to be dismissed. ~~The allegation against the applicant that~~ The statement of the applicant that the entire charges levelled against him were conspired by his colleague Smt. Vijaya Munge, PGT (Hist) of the same Vidyalaya due to some grudge is false and has no substance. The applicant also alleged that Smt. Vijya Munge do not possess the required qualification at the time of her appointment as TGT (S.St) is not true. In fact, she possessed the required essential qualification prescribed by the Navodaya Vidyalaya Samiti at the time of her recruitment to the post of TGT(S.st). Hence, the allegation of the applicant that the charges were conspired by smt. Vijaya Munge due to the grudge she had with the applicant, is nothing but a ~~cocked~~ up story to confuse and misguide the Tribunal. Hence, the impugned orders passed by the respondents are just, proper and in order and no irregularity or illegallity has been committed by the respondents.

6. After hearing the learned counsel for both the parties and careful perusal of the record, we find that



according to the notification dated 20th December, 1993 (Annexure R-1) it is held that whenever the Director is satisfied, after such summary enquiry as he deems proper and practicable in the circumstances of the case, that any member of the Navodaya Vidyalaya is *prima facie* guilty of moral turpitude involving sexual offence or exhibition of immoral sexual behaviour towards any student, he can terminate the services of that employee by giving him one month's or three month's pay and allowances depending upon whether the guilty employee is temporary or permanent in the services of the Samiti. In such cases, procedure prescribed for holding enquiry for imposing major penalty in accordance with CCS(CCA) Rules, 1965, as applicable to the employees of Navodaya Vidyalaya Samiti, shall be dispensed with, provided, that the Director is of the opinion that it is not expedient to hold regular enquiry on account of serious embarrassment to the student or his guardians or such other practical difficulties. The Director shall record in writing the reasons under which it is not reasonably practicable to hold such enquiry and he shall keep the Chairman of the Samiti informed of the circumstances of leading to such termination of services. The Hon'ble Supreme Court in the case of Director, N.V.S. & Ors. Vs. Babban Prasad Yadav & Anr., Special leave Petition (C) No. 9808 of 2002, decided on 2nd May, 03 observed that all that is required for the Court is to be satisfied that the pre-conditions to exercise of the powers under the relevant rules are fulfilled. These pre-conditions are (i) holding of a summary enquiry, (ii) a finding in such summary enquiry that the charged employee was guilty of moral turpitude (iii) the satisfaction of the Director on the basis of such summary enquiry that the charged officer was *prima facie* guilty (iv) the satisfaction of the Director that it was not expedient to hold an enquiry on account of serious embarrassment to be caused to the student or his guardians or such other practical difficulties and finally (v) the recording of the reasons in writing in support of the aforesaid.

6.1. We have perused the original documents relating to the summary enquiry conducted against the applicant by the respondents and we find that the regular enquiry under the CCS(CCA) Rules, 1965, was dispensed with as the matter was relating to a girl student. Detailed enquiry might have serious embarrassment to the girl student or her guardians. We also find that the summary enquiry conducted by the respondents are in accordance with rules and the respondents have also complied with the judgment of the Hon'ble Supreme Court in the case of Babban Prasad Yadav (supra), while passing the impugned order. The charges against the applicant are very grave and serious. This is not a case of no evidence. It is a settled legal proposition that the Courts/Tribunals cannot reapprise the evidence and also cannot go into the quantum of punishment unless it shocks the conscience of the Courts/Tribunals. We do not find that any irregularity or illegality has been committed by the respondents, while passing the impugned order.

7. Hence, we are of the considered opinion that the applicant has failed to prove his case and the Original Application is liable to be dismissed as having no merits. Accordingly, the Original Application is dismissed. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

"SA"

कृतांकन सं. ओ/न्या..... जबलपुर, दि.....
कानूनी अधिकारी अधिकारी अधिकारी
 (1) सरविज, उच्च न्यायालय बाज एम्सेमिशन, जबलपुर
 (2) अवेदक श्री/श्रीमती/चु..... के कानूनी अधिकारी N.S. Kake
 (3) प्रत्यर्थी श्री/श्रीमती/चु..... के कानूनी अधिकारी O.P. Nandedar, Adv.
 (4) कानूनी अधिकारी, जबलपुर न्यायालय
 सूचना एवं अद्यतक कार्यवाही हेतु *PKD* 8-04
 उपर रजिस्ट्रार

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