

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 111 of 2001

Jabalpur, this the 8th day of January, 2004

Hon'ble Shri M.P. Singh, Vice Chairman  
Hon'ble Shri G. Shanthappa, Judicial Member

R.S. Pandey, S/o. Shri  
K.V. Pandey, Aged about 44 yrs.,  
R/o. Opp. MPEB, Office, Murena  
River, Shahdol, Distt. Shahdol  
(M.P.).

... Applicant

(By Advocate - Shri Shashank Shekhar)

V e r s u s

1. Kendriya Vidyalaya Sangathan,  
Through its Commissioner,  
Shaheed Jeet Singh Marg,  
Institutional Area,  
New Delhi.
2. Joint Commissioner (Admin.),  
Kendriya Vidyalaya Sangathan,  
Shaheed Jeet Singh Marg,  
Institutional Area,  
New Delhi.
3. Assistant Commissioner, Kendriya  
Vidyalaya Sangathan, Regional  
Office, GCF Estate, Jabalpur.
4. Principal, Kendriya Vidyalaya,  
Katni, Distt. Katni (M.P.).

... Respondents

(By Advocate - Shri M.K. Verma)

O R D E R (Oral)

By G. Shanthappa, Judicial Member -

The above Original Application is filed challenging  
the order of dismissal dated 21.11.2000 vide Annexure A-14  
and also to quash the enquiry report dated 05.03.1999 and  
order of the appellate authority dated 21.11.2000 vide  
Annexure A-1.

2. The brief facts of the case are that the applicant was served with a charge memo for certain charges. For that

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a departmental enquiry was initiated against him. Before the departmental enquiry the charges levelled against the applicant were true. All the evidences given by the witnesses were in favour of the applicant. Even then the enquiry officer has submitted the enquiry report, against the applicant. On the basis of the enquiry report and submission made by the applicant the disciplinary authority has passed the order for imposing minor penalty under Rule 16 of the CCS(CCA) Rules, 1965. The punishment is as follows :-

"Shri R.S. Pandey will not get his future increment due in August, 1999; August, 2000 and August, 2001 without cumulative effect which will not adversely affect his pension."

The said order was passed on 06.04.1999. Being aggrieved by the said order of the disciplinary authority the applicant has preferred an appeal before the appellate authority. The appellate authority has modified the punishment by enhancing the punishment to dismissal from service. The said order is passed on 21.11.2000 (Annexure A-1). While passing the order by the appellate authority, no reasons are assigned. The grounds urged in the appeal memo were not considered. The case of the applicant is that he was not the class teacher and he did not conduct the examination. It is further submitted that the applicant did not evaluate the answer sheets of the alleged student and for the death of the student he was not responsible. Hence the charges have not been proved. Thus all aspects <sup>on record</sup> ~~of the case~~ have not been considered. Accordingly, the penalty imposed is against the principles of natural justice, the impugned order is not sustainable in the eye of law.

3. The respondents have argued that the opportunity was given to the applicant, for personal hearing before the enquiry officer and even before the appellate authority.

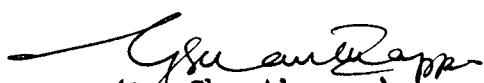
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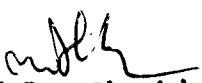
There was no violation of principles of natural justice while imposing the penalty.

4. After hearing the either sides and perusing the records, we find that the appellate authority has not considered all the issues raised by the applicant in the appeal memo. Accordingly the impugned order of the appellate authority is not sustainable in the eye of law.

Hence we quash the impugned order dated 21.11.2000 (Annexure A-1) and remand the case back to the appellate authority. The appellate authority shall pass an appropriate and reasoned order and communicate the same to the applicant within a period of three months from the date of receipt of copy of this order. Till the appellate authority takes a decision on the appeal of the applicant, the applicant will not be taken back in service.

5. Accordingly, the Original Application is allowed in part. No costs.

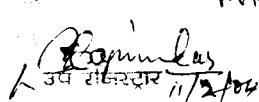
  
(G. Shanthappa)  
Judicial Member

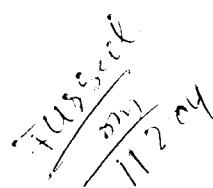
  
(M.P. Singh)  
Vice Chairman

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कृतिकल सं. दो/न्या..... अक्टूबर दि.....  
चूर्णित दिन 11/12/2004

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