

**Central Administrative Tribunal
Principal Bench
New Delhi**

OA No.1072/2012

Order Reserved on:16.03.2016

Pronounced on: 23.03.2016.

**HON'BLE MR. JUSTICE M.S. SULLAR, MEMBER (J)
HON'BLE MR. K.N. SHRIVASTAVA, MEMBER (A)**

Smt. Abha Sharma,
W/o Sh. V.K. Sharma,
Aged about 47 years,
R/o F-3, 1st Floor, Gali No.11,
Parwana Road, Jagatpuri, Delhi.

-Applicant

(By Advocate Shri S.S. Tewari)

-Versus-

1. Govt. Of NCT of Delhi through
Chief Secretary,
Govt. Of NCT Delhi,
New Sectt. Near Indira Gandhi Stadium,
I.P. Estate, New Delhi.
2. Director of Education,
Directorate of Education,
Govt. Of NCT of Delhi,
Old Sectt, Delhi-54.
3. Additional Director of Education (Admn),
Directorate of Education,
Govt. Of NCT of Delhi,
Old Sectt, Delhi-54.
4. Deputy Director of Education, (E),
Directorate of Education
Govt. Of NCT of Delhi,
D-Block, Anand Vihar,
Delhi.

-Respondents

(By Advocate Ms. Harvinder Oberoi)

O R D E R

Mr. K.N. Shrivastava, Member (A):

The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985, seeking the following reliefs:

- “(i) Set aside and quash the impugned orders 16/05/11 and 4/2/11.
- (ii) To direct the respondents to give all consequential benefits flowing from above relief (i) being given including increment and arrears of pay as due to her, treating the period of suspension as spent on duty with full pay & allowances etc.
- (iii) Award costs and
- (iv) Pass any other order/direction as may be deemed just & proper in the facts and circumstances of the case.”

2. Brief facts of this case are as under:-

2.1 The applicant joined as TGT (Natural Science) (Female) with the respondents on 11.08.2005 and has continued to work in the same capacity. She was placed under suspension by an order of respondent No.4 on 05.08.2006. The suspension was subsequently revoked on 10.11.2006 by Annexure E order of respondent No.2. She was issued Annexure C charge-sheet dated 11.08.2006, which contained the following article of charge:

“ARTICLE-I

WHEREAS it has been reported by the Principal/Head of School that **Smt. Abha Sharma**, while posted as **TGT (N.Sc.) in S.K.V. Gokalpur Village, Delhi-110094** is constantly creating hurdles in the smooth functioning of the school. She is in a habit of levelling wild allegations, flouting the instructions of the higher authorities and neglect the assigned duty primarily attached with the post of TGT. She misbehaves and uses abusive language that spoils the discipline and decorum of the School environment.

This act of misdemeanour on the part of **Smt. Abha Sharma, TGT (N.Sc.)** exhibited misconduct unbecoming of a Govt. Servant, especially in case of a School teacher who is supposed to be a role model for her students and society. Thus, **Smt. Abha, TGT (N.Sc.)** has violated stipulated provision of Rule 3 (i)(iii) of the CCS (Conduct) Rules, 1964.”

2.2 A disciplinary enquiry was conducted against her. The Enquiry Officer (EO) submitted his report on 30.06.2010. In his finding, the EO has held that the charge against the applicant **is not proved**. The Disciplinary Authority (DA), namely respondent No.2 did not agree with the findings of the EO and issued Annexure G disagreement note dated 10.11.2010 in which he has given the following grounds for disagreement:

“1) The first listed document is the complaint dated 01.08.06 against Mrs. Abha Sharma through which the Secretary of the PTA (Shri Subhash Chand Sharma, Prosecution Witness No.7) wrote to the EO concerned about the conduct of the C.O. vis-a-vis levelling false allegations against her superiors, inciting students etc. During his examination, the Secretary of PTA not only stood by his complaint, he also alleged that on 01.08.06, the C.O. did not allow him to enter the school

office. She threatened him too. He also reconfirmed that the guardians too had complained to him about the misconduct of the said teacher. However, the I.O. did not give due weightage to the listed document and the deposition by the witness on filmsy grounds e.g., the complaint dated 01.08.06 is not in the handwriting of the Witness (no.7) himself, but in his brother's handwriting.

2) The second listed document is a letter dated 01.08.2006 by the Vice Principal of SKV, Gokal Pur Village (Prosecution Witness no.1) to the SHO P.S. Gokal Puri in which the Vice Principal informed the police authorities that Mrs. Abha Sharma called police by dialling the Police Helpline no.100, informing them that the Principal has locked up some girls in XF Classroom and is beating them. During her examination on 14.07.2009 before the I.O., the Prosecution Witness no.1 stated that she fully agreed to the statement given to the SHO. She further said candidly that the C.O. was in the habit of quarrelling with the staff members and levelling wild allegations against them. The then Vice Principal further reconfirmed that the C.O. created hurdles in the smooth functioning of the school. She insisted that it was the C.O. who called the Police and as proof, she proposed that the record of her telephone calls, can be checked. Despite these categorical inputs provided by the PW, the I.O. choose to neglect them.

3) Listed Document no.5 is a complaint by Mrs. Chaman Rani & Mrs. Suman Kumari (PW nos.2&3, respectively) lodged on 10.07.2006 with the Vice Principal of the school, in which the two teachers accused the C.O. of using unparliamentary language and refusing to supply official record in r/o the students. During her Examination-in-Chief held on 24.07.2009, Mrs. Suman Kumari (PW no.3) stated that she fully agreed to her letter dated 10.07.2006. She reconfirmed that the C.O. did not give her record and used unparliamentary and abusive language against her. She also confirmed that the C.O. called the Police. In her examination, Smt. Chaman Rani (P.W.no.2) also supported the same version.

4) Even though, the above parents, teachers and the HoS firmly stood by their statements, the I.O. neglected

the relevant documents and statements and generally preferred to find some or the other weakness in the statements given by PWs.

5) Lastly, the I.O. has not been able to appreciate the fact that the C.O. did have a strong motive to call the Police and blame/defame the then Vice Principal. And nobody has ever denied the arrival of police in the school on the fateful day.”

2.3 A copy of the disagreement note was provided to the applicant, who submitted her representation against the disagreement note vide her Annexure H representation dated 18.12.2010. The DA, after considering the representation of the applicant, passed the impugned order dated 04.02.2011 (page 16 of the paper-book), imposing the penalty of reduction to a lower stage in the time scale of pay for a period of one year on the applicant, with a further stipulation that she will not earn increment of pay during this period and after expiry of the period, the reduction will have the effect of postponing the future increment of her pay. The order further states that her period of suspension would be treated as '**not spent on duty**' for all purposes.

2.4 She went in appeal before the Appellate Authority (AA), i.e., Principal Secretary (Education), Government of National Capital Territory of Delhi (GNCTD), who vide its Annexure I order dated 16.05.2011 dismissed the appeal. Aggrieved by the impugned orders passed by the DA and AA, the applicant has filed the instant OA.

2.5 Shri S.S. Tewari, learned counsel for the applicant besides highlighting the issues raised by the applicant in the OA and rejoinder, submitted that the charge against the applicant has not been proved as per the EO's report. He drew our attention to the cross-examination of Smt. Prabha Sharma, Vice-Principal (PW-1). She has deposed that she had no information about calling of the police by the applicant, nor does she have any record to prove that the applicant indeed had called the police to the school. Even Shri Subhash Chand Sharma (PW-7) in his cross-examination has said that he does not remember the names of the students who are purported to have alleged that the applicant was using unparliamentary language. PW-7 has also deposed that he does not remember the names of the guardians who are supposed to have complained against the applicant. The learned counsel stated that on the contrary Shri Zile Singh, DW-3, who was a member of VKS during the year 2006, has clearly deposed before the EO that Shri Yogender Sharma used to misbehave with the applicant. DW-3 has corroborated the contention of the applicant in the OA with regard to the harassment of the applicant by the said Shri Yogender Sharma. The learned counsel also stated that even the charges levelled against the applicant are vague in nature, viz. causing hurdles in the smooth

functioning of the school, in the habit of levelling wild allegations, using abusive language etc. The learned counsel vehemently argued that since the applicant had lodged a complaint of sexual harassment on 10.07.2006 against Shri Yogender Sharma, who was virtually exercising the authority of the Vice-Principal due to the Vice Principal's physical disabilities, the applicant was placed under suspension on 05.08.2006, false charges were levelled and disciplinary enquiry was started against her, which has ultimately culminated into infliction of the punishment on her vide the impugned orders. Concluding his arguments, the learned counsel submitted that as the charges against the applicant were levied with malicious intention and despite the EO not finding her guilty, the DA and the AA have wrongly punished her by passing the impugned orders and hence these orders should be quashed and set aside and the prayers made in the OA may be granted.

3. Per contra, Ms. Harvinder Oberoi, learned counsel for the respondents submitted that the applicant indeed has been indulging into all sorts of misbehaviour which has been vitiating the atmosphere of the school. She further submitted that the applicant has been causing myriad hurdles in smooth functioning of the school and has been making wild allegations against and flouting the instructions

of the higher authorities. For such misconduct on the part of the applicant, she was issued charge-sheet dated 11.08.2006, pursuant to which, disciplinary enquiry was conducted against her in accordance with the provisions of CCS (CCA) Rules, 1965. The applicant had participated in the enquiry. The DA found gaping holes in the EO's report and has issued a detailed disagreement note in which very clearly he has brought out various lacuna in the EO's report. She submitted that the Secretary of Parents Teachers Association (PTA) of the school, Shri Subhash Chand Sharma (PW-7) has written to the EO regarding the misconduct of the applicant of levelling false allegations against the superiors, instigating the students, complaints of the guardians of misconduct on the part of the applicant but the EO had not given due weightage to all these things. The EO had ignored the fact that the Vice Principal (PW-1) had written to SHO, Gukulpuri vide her letter dated 01.08.2006 stating that the applicant had called the police helpline no.100 informing that the Principal had locked some girl students in a class room and was beating them. The EO has completely ignored these things. Even the complaint made by PW-2 and PW-3 ledged on 10.07.2006 with the Vice Principal in which they had alleged that the applicant was using unparliamentary language against them, has not been

dealt with by the EO in his report despite PW-2 supporting her version during her cross-examination. The learned counsel also submitted that the applicant had levied false allegation of sexual harassment against Shri Yogender Sharma, which was duly investigated by the appropriate committee, who have found that the allegations made by the applicant are false. Concluding her arguments, the learned counsel for the respondents submitted that there is no substance in the OA and as such the OA is liable for dismissal.

4. We have considered the arguments put-forth by the learned counsel for the parties and have also perused the pleadings and documents annexed thereto.

5. The charge against the applicant is that she is in the habit of levelling wild allegations against her superiors, flouting the instructions of higher authorities and using abusive language which vitiates the school environment. The case of the applicant is that she has been put to harassment and subjected to departmental proceedings only because she had lodged a sexual harassment complaint against Shri Yogender Sharma, TGT (Sanskrit) working in the same school and who was virtually the right arm of the Vice Principal. The applicant further alleges that her suspension on 05.08.2006 and subsequent disciplinary

action against her, took place only on account of her sexual harassment complaint against the said Shri Yogender Sharma. During the course of hearing of the case on 04.03.2016, we considered it appropriate to call for the file from the respondents in which the complaint of sexual harassment of the applicant has been dealt with. The said file was produced before us on 16.03.2016 during the course of hearing. We have perused the file. It is seen from the record that the sexual complaint of the applicant was duly inquired into by the Sexual Harassment Committee, North East District, whose Chairperson was Mrs. Usha Kumari. The Committee had two other members. The findings of the Committee, *inter alia*, are as under:

- i) The Vice Principal Mrs. Prabha Sharma was incapable in taking important decisions.
- ii) Despite availability of computer facility in the school, the Vice Principal used to get the letters of the schools handwritten by Shri Yogender Sharma and she used to simply sign those letters, even without reading them.
- iii) Due to her administrative in-capabilities, the Vice Principal used to take help of Shri Yogender Sharma in every field, albeit Shri Sharma used to misuse this arrangement at times.

iv) At the instructions of the Vice Principal, Shri Yogender Sharma had called the applicant on 10.06.2006 which was a second Saturday and hence a holiday. Besides the applicant, two other lady Teachers namely Smt. Leena Singh and Smt. Poonam Tyage were also called. The allegation of the applicant that Shri Yogender Sharma was alone in the school on that day, has been found to be incorrect. From the averments of other lady Teachers of the school before the Committee, it was found that Shri Yogender Sharma has not indulged into sexual harassment of any Teacher.

v) The applicant, however, informed the Committee that on 03.07.2006, Shri Yogender Sharma had attempted to molest her finding her alone in the office (this has not been corroborated by any other person).

vi) Initially the Vice Principal, applicant and Shri Yogender Sharma were thick friends.

vii) The students had submitted before the Committee that the applicant had pressurised the students to depose before the media in front of Ambedkar College against the school management.

viii) The students had also informed the Committee that the applicant had bolted the door of the class room and had called the police.

ix) The students had also alleged that the Vice Principal used to admonish them due to which the students were quite depressed.

x) The Committee has concluded that for vitiating the atmosphere of the school, all the three persons namely Smt. Prabha Sharma, Vice-Principal, Shri Yogender Sharma, TGT (Sanskrit) and Smt. Abha Sharma, TGT (Natural Science) (present applicant) are jointly responsible and departmental action should be taken against them.

6. In the statement of articles of charges framed against the applicant, a copy of which was supplied to the applicant with the memorandum of charges, it has been alleged that the applicant had called the police stating that some girl students were locked up by the school Principal and they were being beaten up.

7. The scope of judicial scrutiny in a disciplinary enquiry case is highly limited. The Courts are only supposed to see as to whether the enquiry has been conducted as per the laid down procedures, whether the principles of natural justice have been followed and whether the punishment imposed is proportionate to the offence committed. In the instant case, we find that the enquiry has been conducted strictly in accordance with the procedure laid down under the CCS (CCA) Rules, 1965. The applicant has participated in the

inquiry and no principles of natural justice have been violated. The DA has issued the disagreement note in which the lacuna in the EO's report have been clearly pointed out. The DA has passed a speaking order dated 04.02.2011 imposing the punishment of reduction to a lower stage in the time scale of pay on the applicant. The memorandum of charges seen in the light of the report of the Sexual Harassment Committee would give an impression that the conduct of the applicant was not above board. As such, we do not find any infirmity in the impugned orders passed by the DA and AA. We are also of the view that the punishment meted out to the applicant is not at all disproportionate to the offence committed. Further, principles of natural justice have been followed at every stage of the enquiry.

8. In view of the foregoing, we do not find any merit in the OA. The OA is accordingly dismissed.

9. No order as to costs.

(K.N. SHRAVASTAVA)
Member (A)

(JUSTICE M.S. SULLAR)
Member (J)

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