

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA 1915/2014

Hon'ble Mr. P.K. Basu, Member (A)

Reserved on: 9.05.2017
Pronounced on: 12.05.2017

Bhuvnesh Kumari
(retired as Vice Principal)
W/o Shri B.P. Singh
R/o H.No. A-121, Gali No.4,
Jagatpuri, Mandoli Road
Delhi-110093

...Applicant

(Through Shri Sourabh Ahuja, Advocate)

Versus

1. GNCT of Delhi
Through its Chief Secretary,
Delhi Secretariat,
New Delhi
2. Assistant Director of Education (Vigilance)
Directorate of Education
Vigilance Branch
GNCT of Delhi, Old Secretariat
Delhi-110054
3. Lt. Governor of Delhi
GNCT of Delhi
Raj Niwas, Shamnath Marg,
Delhi-110054

.... Respondents

(Through Shri Vijay Pandita, Advocate)

ORDER

Mr. P.K. Basu, Member (A)

The applicant in this case was a Post Graduate Teacher and was promoted to the post of Vice Principal on 26.11.2002.

She was declared as Head of Office for the school on 23.05.2003 and officiated on the said post till her superannuation on 30.09.2013. Vide memorandum dated 1.12.2011, she was issued a charge sheet under Rule 16 of the CCS (CCA) Rules on the ground of lack of devotion to duty and conduct unbecoming of a government servant. In brief, the charge was that she did not maintain the school premises properly and there was deficiency in available number of Desks and Daris for the girls to sit on; taps were not in working condition; works under Bala Scheme not executed properly; black boards were in pathetic condition; no fans in the class room; no window panes and grills in the classes; school ground was covered with rain water; toilets not provided with water, light and fresh air; projector supplied was not even opened and shortage of teachers etc. The charge sheet also included the charge of the applicant being found absent from duty between 2.09.2008 and 5.09.2008 without getting the leave sanctioned. The charge sheet also stated that as a result of this, on 1.09.2008, the girl students sat on an agitation due to which the Deputy Director of Education visited the site and the above discrepancies were detected.

2. Vide order dated 9.01.2013 of the Chief Secretary, the applicant was awarded the punishment of 'censure'. The applicant made an appeal before the appellate authority, which was rejected vide order dated 19.08.2013 on the ground of appeal having been filed beyond the period of limitation. The applicant is aggrieved by these orders and seeks the following reliefs:

- (a) Quash and set aside the impugned orders (viz. memorandum dated 1.10.2011), censure order dated 9.01.2013 and appellate authority dated 19.08.2013;
- (b) Accord all consequential benefits to the applicant viz. promotion/ ad-hoc promotion, arrears of salary with interest @ 18% p.a. on the arrears, re-fixation of pension and other retiral benefits etc.; and
- (c) Award cost in favour of the applicant and against the respondents.

3. The applicant has made the above prayers on the following grounds:

- (i) That as Vice Principal of the School, the applicant wrote letters dated 20.07.2007, 28.07.2007, 1.02.2008 and 12.08.2008 to the higher authorities about shortage of staff, desks etc. in the school;
- (ii) That the construction work carried out under Bala Scheme was checked regularly by the applicant and the same was above par. It is stated that the finding that poor quality of work was executed was on the whims and fancies of the respondents;
- (iii) That the appellate authority rejected her appeal on the ground of limitation, which is arbitrary as the Hon'ble Apex Court in a catena of judgments has held that when substantial plea and technical plea are pitted together then the Courts/ authorities should decide the case on merits

rather than dismissing the same on technical pleas such as limitation; and

- (iv) That the so called incident happened on 1.09.2008 whereas the charge sheet has been issued to the applicant on 1.12.2011 after a delay of three years. It is submitted that the aforementioned delay in issuing the charge sheet has caused great prejudice to the applicant in as much as she has been deprived of reasonable opportunity to defend her cause effectively.

4. The learned counsel for the applicant relied on the judgment of the Hon'ble Supreme Court in **Prem Prakash Tiwari Vs. Union of India**, 2001 LawSuit (SC) 260, in which case the appeal had been dismissed on the ground of delay and the Hon'ble Court held that the right of the appellant therein was taken away wrongly. The Hon'ble Supreme Court directed that departmental appeal be entertained and decided on merits by the competent authority.

5. The learned counsel further stated that as a result of punishment of 'censure', she could not get her promotion and now is being denied re-employment.

6. The learned counsel for the applicant drew my attention to communication dated 12.07.2007 of the applicant addressed to the Director in which it was pointed out that out of 46 posts of TGTs, only 22 posts are filled and two TGTs are on maternity

leave and one TGT (Maths) has resigned. Thus, only 19 teachers are available to teach 1857 students.

7. Regarding applicant’s performance, the learned counsel referred to Annexure-5, which is as follows:

“Result X Class Year Wise

<u>Before Compartment</u>							<u>After Compartment</u>		
Year	Total students	Appeared	Passed	Failed	Compartment	Pass%	Passed	Total	Pass%
2005-06	126	124	32	24	68	25.81%	23	55	44.35%
2006-07	126	124	66	06	52	53.23%	24	90	72.58%
Increased Result in 2006-07						+27.41%			+28.23%
2007-08	222	222	132	21	69	59.46%	41	173	77.92%
Increased Result in 2007-08						+6.23%			+5.34%

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It is pointed out by the learned counsel that the applicant had joined the school in 2006-07 and after her joining the pass percentage increased.

8. Learned counsel for the applicant also drew my attention to e-mail dated 4.06.2008 addressed to all the Head of Schools of those zones which showed increasing high percentage in CBSE Board results for the session 2007-08, congratulating them for their performance. It is stated that Code 1104335 mentioned in this communication pertains to the applicant’s school.

9. My attention was further drawn to letter dated 28.07.2008, which was on feasibility report by the Vice Principal of the

School, which showed that desk available were 70 against the required number of 700.

10. It is the case of the applicant that she had performed very well and had been pointing out deficiencies to the higher authorities and that the deficiency of teachers and desks etc. was not her fault but was the fault of the Directorate.

11. The learned counsel for the respondents stated that the prime responsibility of Head of School is to act as a friend, philosopher and guide to the teachers and even the public around him or her and to act as a role model for the students with his/ her conduct so that they could perform their work and duty under his/ her supervision not only to produce the best results in the school but also to set an example to others. It is stated that the applicant was suspended from 10.09.2008 to 8.06.2009 and after her retirement, the suspension period was treated as spent on duty for all purposes.

12. The respondents in para 4.4 of their reply have also denied having ever received letters dated 3.07.2007, 12.07.2007, 31.07.2007 and 1.02.2008 as these could not be traced in the school records and hence the authenticity of the same could not be verified.

13. Lastly, it is stated that the Annual Performance Assessment Report of the applicant for the year 2012-13 is as follows:

- “* She is not very responsive to people’s need. Complaints received in zone against the officer by people and her staff.
- Training recommended for knowledge of rules and positive attitude towards work.
 - She was issued the Censure in 2013 in respect of D.P. against her.
 - The employee needs to improve inter personal relationship with her own staff staff and also the general public. More knowledge of rules is required. Integrity should also be spotless.”

14. I have heard the learned counsel for the parties and gone through the pleadings available on record.

15. On 1.09.2008, the girls of the school agitated against the poor facilities in the school. When senior officers visited the school on receiving such information, they found that the applicant who was the Vice Principal, was missing and the students were rightly agitating as the school was kept in a very shabby condition. The defence of the applicant that she was not available between 2.09.2008 and 5.09.2008 because she was unwell and had to go hospital to take treatment, cannot be accepted and is clearly an afterthought. While I agree with the applicant that it was not all her fault, certainly it was her fault if the school premises was unclean and not maintained properly. She was given an opportunity to explain and thereafter the disciplinary authority gave her mildest punishment of ‘censure’. I do not find any reason to interfere in the same.

16. As regards the appellate authority dismissing the appeal on the ground of limitation, there is no illegality in this as well.

17. In view of the above discussion, I find no reason to interfere with the impugned orders. The OA is dismissed. No costs.

(P.K. Basu)
Member (A)

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