

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.2953/2016

New Delhi, this the 18th day of January, 2017.

**HON'BLE MR. JUSTICE PERMOD KOHLI, CHAIRMAN
HON'BLE MS. NITA CHOWDHURY, MEMBER (A)**

K.S.Kalshian, Aged about 60 years
S/o late Sh. Raghunath Singh Kalshian
R/o 2089/31, Gali No.1,
Ashok Garden (Rajendra Park),
Gurgaon-122001. ...Applicant.
(By Advocate: Shri O.P.Kalshian)

Versus

GNCTD Through

1. The Chief Secretary,
GNCTD, New Secretariat,
Indraprastha, Delhi.
2. The Director of Education
Directorate of Education,
Old Secretariat, Delhi-54.
3. The Deputy Director of Education
Distt. South West (B)
Najafgarh, Delhi.
4. The Deputy Director (Education)
Zone 21, Najafgarh, Delhi.
5. The Superintendent (Vigilance)
Distt. South West (B)
Najafgarh, Delhi. -Respondents.

(By Advocate:Shri N.K.Singh for Ms.Avnish Ahlawat)

ORDER (ORAL)

By Mr. Justice Permod Kohli

The applicant was working as Vice-Principal in G.B.S.S. School No.2, Samalakha, New Delhi. He was placed under

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suspension vide impugned order dated 30.07.2016 on account of contemplated disciplinary proceedings. The applicant was to retire on 31.07.2016 i.e. the day following the date of suspension. After his retirement, the applicant's pensionary benefits have not been settled. Under these circumstances, the applicant has filed the present OA seeking following reliefs:

"(i) To set aside and quash the suspension order No.F.No. DE 7/74/VPL/VIG HQ/2016 dated 30.07.2016.

(ii) To allow pension, gratuity and commutation of pension with interest thereon w.e.f. 1.8.2016 onwards.

(iii) To allow all other retiral benefits admissible to the applicant as on 31.7.2016 after retirement viz., GPF CGEIS and Leave encashment etc. and right for re-employment for 2 years."

2. The main grievance of the applicant, as projected during the course of arguments, is that no disciplinary proceedings were initiated by issuing the charge-sheet within 90 days from the date of his suspension, which is illegal and bad in law. In these circumstances, Shri N.K.Singh appearing for the respondents was asked to inform the court as to whether any charge-sheet was served upon the applicant or not.

3. Today, Shri N.K.Singh produced a copy of memo of charge dated 21.12.2016 issued under Rule 14 of CCS (CCA) Rules, 1965 read with Rule 9 (6) (a) of the CCS (Pension) Rules, 1972. It is

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evident that since the charge-sheet was not issued within 90 days of the initial suspension, order of suspension is rendered non est and is liable to be set aside. Otherwise also, on retirement of the applicant, suspension becomes irrelevant. Under these circumstances, the order of suspension is not sustainable in law.

4. As regards the other relief claimed by the applicant regarding pension and other post retirement benefits, the applicant is at least entitled to the provisional pension in accordance with rules.

5. In view of the prayer made and the circumstances mentioned hereinabove, this OA is disposed of with the following directions:

Impugned order dated 30.07.2016 is hereby quashed. The respondents are directed to pay provisional pension and other admissible retiral benefits to the applicant in accordance with law within a period of three months from the date of receipt of copy of this order. The applicant is at liberty to seek appropriate remedy in accordance with law on culmination of the disciplinary proceedings or if the admissible dues are not paid to him. No costs.

**(NITA CHOWDHURY)
MEMBER (A)**

**(PERMOD KOHLI)
CHAIRMAN**

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