

**Central Administrative Tribunal  
Principal Bench**

OA No. 3050/2011

Order reserved on: 26.07.2016  
Order pronounced on: 10.08.2016

***Hon'ble Mr. Justice M.S.Sullar, Member (J)  
Hon'ble Mr. V. N. Gaur, Member (A)***

Ms. Shahida Begum  
W/o Shri Tilak Raj,  
R/o 346, IIIrd floor, Katra Budhan,  
Budhan Rai, Delhi Gate,  
Darya Ganj, New Delhi-110002.

- Applicant

(By Advocate: Mr. Jainendra Maldahiyar)

Versus

The Chief Secretary,  
Govt. of NCT of Delhi,  
Directorate of Education,  
Old Secretariat, Delhi.

- Respondents

(By Advocate: Mr. Amit Anand)

**ORDER**

***Hon'ble Mr. V.N.Gaur, Member (A)***

The applicant was working as TGT (English) of GBSS Haveli Azam Khan, Asaf Ali Road when a charge sheet dated 15.12.2009 was served to her with the following charges:

**“Statement of Articles of Charges Framed Against Smt. Shahida Begum, TGT (English), G.G.S.S. Haveli Azam Khan, Asaf Ali Road, New Delhi**

**ARTICLE-I**

The HOS, GGSSS, Haveli Azam Khan, vide their letter dated 31/08/2009, has informed that Smt. Shahida Begum, TGT (Eng.)

behaves in an erratic manner and beats the children of the school without any reason. She also misbehaves with fellow teachers.

## **ARTICLE-II**

A complaint has also been received from the parents, duly signed by them, against Smt. Shahida Begum, TGT (Eng.), for beating the students. Smt. Munawwar Sultana, TGT (S.Sc.), has also made a complaint addressed to the Director of Education regarding misbehaviour of Smt. Shahida Begum, TGT (Eng.)."

2. The applicant replied to the charge sheet on 04.01.2010 denying all the charges but, not convinced, the Disciplinary Authority (DA) ordered departmental enquiry against the applicant. The Enquiry Officer submitted his report dated 28.10.2010 in which the charges of slapping four students and verbally abusing another teacher were proved. The enquiry officer in his conclusion/findings also stated that any other incident relating to erratic manner/beating of children or misbehaviour with fellow teachers was neither reported by anyone nor came to notice during the enquiry proceedings. The joint complaint was made by the teachers against the applicant 'under some false impression' as they clarified later that no incidence of misbehaviour or beating the students occurred in their presence. The complaint received by the parents could also be not validated, as only one parent's name was found to be identical with the parents detail available with the school. He further concluded that the signatures of parents were made fraudulently on the complaint by someone. The complaints also did not contain

specific dates or person on which the act of misbehaviour/beating was done by the applicant.

3. The DA vide order dated 11.01.2011 imposed the penalty of reduction to two lower stages in the time scale of pay for a period of one year upon the applicant with further direction that she would not earn increments of pay during this period and after expiry of that period reduction will have effect of postponing future increments of her pay. The entire period of suspension was treated as not spent on duty for all purposes. The applicant submitted an appeal against this order to the Appellate Authority (AA) on 20.04.2011 but the same was also rejected by the AA by order dated 13.05.2011.

4. Learned counsel for the applicant in his submission referred to the following grounds to justify quashing of the impugned orders:

(i) The entire proceeding was vitiated because the charge sheet served on the applicant was vague and non-specific. It was alleged that the applicant behaved in an erratic manner and beaten the children of the school without any reason and that she also misbehaved with fellow teachers, but neither in the charge sheet nor in the statement of imputation of misconduct any details were given.

(ii) It was further alleged that complaints have been received from parents duly signed by them regarding beating of students but no specific complaint was referred to. The applicant had submitted a representation on 31.03.2010 asking for documents like alleged complaint made against her by Smt. Munawwar Sultana, TGT (S.Sc.), complaints received from parents, copy of letter dated 31.08.2009 alleging her behaviour to be erratic, details of the incident of misbehaviour or beating up children etc. but the same was never supplied to her which caused severe prejudice to the defence in the departmental enquiry. The enquiry officer in the report had clearly recorded that these charges were not proved. Even the incident in which the enquiry officer had concluded that it did take place, there was no evidence on record. The complaint made by the Principal to the DA was without application of mind and without enclosing the relevant documents. On 11.08.2011 most of the students of the school came forward and submitted a written statement to the enquiry officer that they had not signed any complaint against the applicant. On 11.08.2010, 14 staff members had intimated the enquiry officer that they had put their signatures on the complaint under unavoidable circumstances.

(iii) During the enquiry 11 students of school were called as witnesses, of whom the version of 4 students was stressed upon but the applicant was not given opportunity to cross examine those students.

(iv) The entire disciplinary proceeding was vitiated and liable to be quashed as Rule 16 (1) (A), 20, 22, 23, 27 of CCS (CCA) Rules, 1965 were not violated. The observations made by the enquiry officer in the report clearly exonerated the applicant of the charges. The final conclusion is, therefore, contradictory.

(v) The DA/competent authority to take disciplinary action against the applicant is the Chief Secretary, and therefore, no disciplinary action could have been taken by Director (Education).

(vi) Learned counsel further submitted that DA and AA did not consider the observation of the enquiry officer that there was personal enmity and jealousy among the staff. DA and AA also did not consider that the complaints were not validated, and imposed a harsh penalty on the applicant which was not justified even taking into account the incidents that have been proved by the enquiry officer.

6. Learned counsel of the respondents, on the other hand, vehemently denied the submissions of the learned counsel for the

applicant and submitted that there was ample evidence to prove the erratic behaviour of the applicant and her habit of beating the students and misbehaving with the colleagues. He referred to para 4.2 and 4.3 of the counter affidavit wherein it is stated that applicant had beaten some girl students, namely, Mohseena, Meri, Gulnaz, Farh and Varisha when the Principal was on leave. When the parents received information about the incident, they made a complaint and also approached the office of Human Resources (HRD) Minister, which asked the DDE (Central) to enquiry into the matter. The applicant was suspended on 05.09.2009 and disciplinary proceeding was started under Rule 14 of CCS (CCA) Rules, 1965. He further submitted that some of the documents asked by the applicant were supplied to her and the position in respect of remaining documents was explained by enquiry officer in the proceeding dated 06.08.2010 (Annexure R-11). He denied that the DA and AA did not consider her contentions and stated that these two orders which are placed on record show that there was adequate application of mind before passing these orders.

7. We have carefully considered the submissions made by the learned counsel for the parties and perused the record. The applicant has raised a number of grounds in the appeal submitted against the order of DA which have not been touched upon by the AA in its order dated 13.05.2011. Some of the

grounds do have merit. It has been alleged that the charge sheet is vague. A perusal of charge sheet including the statement of imputation shows that the allegations are general in nature and no particular incident of beating the students or misbehaviour with the teacher has been made. In such a situation, applicant could not be expected to put up an effective defence against the allegations. The annexure to the chargesheet mentions the complaint made by Smt. Munawwar Sultana, TGT (S.Sc.), complaint by students and the letter of HOS dated 29.01.2009, as the documents in support of Article-I but nothing has been mentioned in respect of Article-II. There is nothing on record to show that the enquiry officer/DA/AA considered the request for copies of documents asked for by the applicant on its own merit.

8. We also find that in the report of the enquiry officer, it has been observed at page 7 that “as per charge sheet, the reference of only one letter dated 31.08.2009 is given. In this letter no specific reference mentioning the date and names of students/persons

who were misbehaved or beaten by Smt. Sahida Begum, is given.”

The letter dated 31.08.2009 is the letter written by HOS, GBSS, Haveli Azam Khan to the Directorate of Education reporting the erratic behaviour, beating of children without any reason, and misbehaviour with fellow teachers by the applicant. The enquiry officer had concluded that only one incident had occurred on 29.08.2009 related to beating of students of Class X-A and it was

proved that the applicant had slapped Rukhsar, Gasiya, Sana Abid and Aishya in connection with submission of scholarship forms. No other incident relating to beating of children or erratic behaviour of the applicant had come to notice. The enquiry officer has also commented on the relationship between the applicant and the complainant teacher Smt. Munavvar Sultana and observed that:

“it was felt by the undersigned during the course of inquiry proceedings that both the official were having/feeling jealousy with each other and atmosphere seen by the undersigned during the inquiry proceedings insist me to verdict that the whole scenario between Smt. Shahida Begum and Ms. Munavvar Sultana is due to something personal jealous/enmity between them, the reason best known to them. The student who were alleged to be beaten by the charged official, and their parents were also called by the undersigned for their statement, the impressions of parents/students at that time when Smt. Shahida Begum was also present, was referring to a personal circumstance. During the inquiry proceedings when Ms. Munavvar Sultana, Shahida Begum and student along-with parents were present, I observed some smell of personal enmity between them as the student were deposing their version with silent directions/action of parents and Ms. Munavvar Sultana, TGT.”

9. The joint complaint of the students was also not found to be genuine by the enquiry officer due to following reasons:

“This complaint was singed (sic.) by 132 students from various classes. It was not practically possible for the undersigned to meet all the 132 students for verification and genuineness of this complaint. Hence signatures of all the students were taken Class-wise on Blank Papers and it is observed that signatures on the complaint were not tallied with the original signatures of the students. Furthermore none of the students or teachers came to forefront to take the responsibility/authenticity of this document. Hence it appears that while principal was busy with the parents, a group of teachers & students created several false documents on behalf of the students. Some of the documents including the above mentioned document were either given to principal along-with other documents or somehow included in the documents

which were to be sent to the DDE by the principal. Even the principal is not sure how many papers, were actually collected by her and how many papers were actually sent to the DDE and there is no record of Diary/Despatch/Page Numbering of documents sent to the DDE. Also none of these document was found to be signed by the principal. The document/letter dated 31/08/2009 as mentioned in the charge-sheet which was written by the principal to the DDE does not show whether any document have been enclosed with it or not. Also both the Principals (retired and present) were not able to provide the duplicate copy or office copy of letter along-with complaints forwarded to DDE complaining against Smt. Shahida Begum.

(f) It is also gathered from the complaints written by the students against Smt. Shahida Begum that wording of these complaints is stereotyped in nature. If any complaint is written by any individuals against someone the wording differs from each other as per their grievances. It gives an impression that particular teacher/student guided other students to write the complaint by either dictating the contents of the complaint or took the help of the blackboard.”

10. The DA and AA have not dealt upon these observations of the enquiry officer anywhere in their orders. The enquiry officer in paras g & h has also commented that though the charges framed against the applicant are vague, some incidents have evidently been proved “but keeping in view the principal (sic.) of natural justice, the fact of personal controversial affairs between both the official (Smt. Sultana Begum and Ms. Munawwar Sultana) also cannot be ignored and I also cannot gulped/ignored the facts mentioned by the charged official that she should have been given opportunity to represent herself and the charges/allegations made against her should contain full particular relating to incident mentioning date time place and person etc. and same should have been served upon her within

stipulated period of 90 days as per provisions contained under Rule 14 (3) & (4) of CCS (CCA) Rules, 1965.”

11. The view taken by the DA in order dated 11.01.2011 reads as follows:

“I have carefully gone through the record adduced before me in r/o the Disciplinary proceedings case against Smt. Shahida Begum, TGT (English), and have observed that the charged official was charge sheeted for the grave misconduct of inflicting corporal punishment to the students and also misbehaviour with the fellow teachers. In the inquiry report, the charges of slapping students, namely Rukhsar, Gasya, Sana Abid and Aishya by the charged official on 29/08/2009, and also verbally abusing Smt. Munawwar Sultana, TGT (S.Sc.) on 31/08/2009 were proved. The corporal punishment to students in the school is prohibited by the law. Further more, misbehaviour with fellow teachers is also a misconduct which is unbecoming of a government servant.

Now, therefore, I, P.Krishnamurthy, Director of Education, being the Disciplinary Authority, in exercise of powers conferred upon me under Rule 12 of CCS (CCA) Rules, 1965 hereby impose the penalty of reduction to two lower stages in the time scale of pay for a period of one year upon Smt. Shahida Begum, TGT (English), with further directions that she will not earn increments of pay during this period and after the expiry of the period, the reduction will have the effect of postponing the future increments of her pay. The entire period of her suspension be treated as ‘Not Spent on Duty’ for all purposes.”

12. The AA has dismissed the submissions of the applicant in the following words:

“I have gone through the inquiry report as well as the order of the disciplinary authority. The claim of the Charged Officer that the inquiry report has exonerated her of the charges is not entirely true. The fact that the conclusion in the inquiry report is that there were some incidents of behaviour in an erratic manner and beating up of the children, shows that the charges have been proved. Similarly the charge relating to mis-behaviour with fellow teachers has also been substantiated. The order of the disciplinary authority have given due consideration to all the facts that were brought on record, through the inquiry report. It has also recorded that corporal punishment to students is prohibited. Mis-behaviour with fellow officials is not only unwarranted but unbecoming of any public servant, more so by a teacher who is expected to set an example for students through

her own conduct. I also do not find that the penalty imposed is harsh, considering the facts of the case."

13. After carefully perusing the report of the enquiry officer and the orders passed by the DA and AA, we are of the view that the DA and AA have not taken into account the fact that though the charge against the applicant was quite general implying that the applicant was in the habit of misbehaving with the colleagues and slapping the children, the enquiry could prove the incident of slapping in respect of only four students on 29.08.2009 for the delay in submission of scholarship forms and verbally abusing Smt. Munawwar Sultana on 31.08.2009. These incidents cannot be generalised particularly the misbehaviour with Smt. Munawwar Sultana keeping in view the strained relationship between the two. The enquiry report is replete with observations that the joint complaints of students and parents were ostensibly forced or managed. Most of the students and teachers have also admitted that the complaints were made under certain special circumstances. In such a situation, even the quantum of penalty imposed on the applicant raises a question whether it is proportionate to the incident that has been proved by the enquiry officer.

14. Considering the circumstances and taking into account the discussion in the preceding paras, we quash the orders passed by the DA and AA and remand the matter back to the respondents to

reconsider the report of the enquiry officer in the backdrop of various submissions made by the applicant in her representations, the observations of the enquiry officer and the observations made in this order, and pass a fresh order within a period of three months. The OA stands disposed of accordingly.

No costs.

***(V.N. Gaur)***  
***Member (A)***

***(Justice M.S.Sullar)***  
***Member (J)***

'sd'

August 10, 2016