

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00272/2015

Date of Order: This, the 03rd day of April 2019

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. NEKKHOMANG NEHSIAL, ADMINISTRATIVE MEMBER

Shri Bishnu Prasad Rabha
Presently working as Upper Division Clerk
Kendriya Vidyalaya, NEIST (RRL), Jorhat
Jorhat – 785006 (Assam).

...Applicant

By Advocates: Mr. S.N. Tamuli & Ms. A. Begum

-VERSUS-

1. Kendriya Vidyalaya Sangathan
Through the Joint Commissioner
(Administration)
18 Institutional Area, Saheed Jeet
Singh Marg, New Delhi – 110016.
2. The Commissioner
Kendriya Vidyalaya Sangathan
18 Institutional Area, Saheed Jeet
Singh Marg, New Delhi – 110016.
3. Deputy Commissioner
Kendriya Vidyalaya Sangathan
Regional Office, Silchar, Captain NM Gupta Sarani
P.O. – Silchar, Dist – Cachar (Assam)
Pin – 788001.
4. Shri Somit Shrivastav
Deputy Commissioner
Kendriya Vidyalaya Sangathan
Regional Office, Silchar
Captain NM Gupta Sarani, P.O. – Silchar,
Dist – Cachar (Assam), Pin – 788001.

5. Ajay Pant, Deputy Commissioner
Kendriya Vidyalaya Sangathan
Regional Office, Tinsukia
Campus of Kendriya Vidyalaya
Duliajan, P.O. – Duliajan
Dist – Dibrugarh (Assam), Pin – 786602.

... Respondents

By Advocate: Mr. M.K. Majumdar, KVS SC

ORDER

NEKKHOMANG NEIHSIAL, MEMBER (A):

By this O.A., applicant makes a prayer for setting aside the impugned memorandum dated 12.03.2015.

2. Heard Mr. S.N. Tamuli, learned counsel or the applicant and Mr. M.K. Majumdar, learned KVS standing counsel for the respondents.

3. Mr. S.N. Tamuli, learned counsel appearing on behalf of the applicant submitted that the applicant was serving as Upper Division Clerk in Kendriya Vidyalaya, NEIST (RRL), Jorhat, Assam. On allegation of misbehavior with Ms. Rima Paul, Contractual Teacher, KV, NEIST (RRL), Jorhat and for nuisance/violent threats in the Vidyalaya on 23.01.2015 by the applicant, Fact Finding Enquiry was ordered vide office order No. 42061/2014-15/KVS (RO)TSK/Admn dated 16.02.2015 consisting of the Chairman and four other members. During the course of enquiry, applicant was directed to

appear and present before the Committee vide office order dated 26.02.2015. The applicant vide his letter dated 27.02.2015, protested and refused to cooperate with the Enquiry Committee. Subsequently, a Memorandum of Charge-sheet under No. 29062/2014/KVS(SR) dated 12.03.2015 was issued to the applicant with following two Articles of Charge:-

Article-I: Shri B.P. Rabha, while functioning as UDC at Kendriya Vidyalaya, NEIST, RRL, Jorhat has shown a violent and unruly behavior on 23.01.2015 during working hours in the school, He misbehaved and ill-treated Ms. Rima Paul, a contractual teacher working in the Vidyalaya by invading her class room, banging the door of the class room and later advancing forwards her menacingly with a metal trophy, which he grabbed from a show-case, after breaking its glass.

Shri B.P. Rabha, UDC has thus acted in contravention to Rule 3(1)(iii) of CCS (CCA) Rules, 1964 and thus rendered himself liable for disciplinary action.

Article-II: Shri B.P. Rabha, while functioning as UDC at Kendriya Vidyalaya, NEIST, RRL, Jorhat has refused to follow the instructions of his officials on 27.02.2015 when he was asked to present his side on the charge that he behaved in an in-disciplined and unruly manner on 23.01.2015 in the school premises. He refused to co-operate in the inquiry and submitted a letter dated 27.02.2015, couched in disrespectful language towards the officials superior.

Shri B.P. Rabha, UDC has thus acted in contravention to Rule 3(1)(i)(ii)(iii) of CCS (CCA) Rules, 1964 and thus rendered himself liable for disciplinary action.

4. Against this initiation of disciplinary proceedings, the applicant approached this Tribunal with the present O.A. No. 040/00272/2015. This Tribunal after having preliminary hearings took up the issue and has stayed the disciplinary proceedings vide order

dated 31.07.2015 and also directed that this case should be heard along with O.A. No. 040/00028/2015 wherein the applicant has contested the disciplinary proceedings leveled against him on charges of sexual harassment.

5. On going through this case, it is observed that though the individual who had leveled allegation against the applicant on account of sexual harassment is the same person in regard to the charge-sheet issued against the applicant on account of misbehavior/unruly behavior, the points of charges and incidents are entirely different. There is no justification for linking the two separate case.

6. Keeping in view of the above, the order of this Tribunal dated 31.07.2015 staying the operation of the Memorandum dated 12.03.2015 is hereby vacated. Respondents are at liberty to proceed further with the disciplinary proceedings or drop the charges as deemed fit.

7. O.A. stands dismissed. No order as to costs.

(NEKKHOMANG NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)