

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.1939/2013

Thursday, this the 28th day of March 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)**

Shri Brahampal Singh, TGT (English)
s/o late Sh. Phool Singh
r/o H.No.5-A, Gali No.1, Part II
Pratap Vihar
Delhi – 110 086

...Applicant

(Mr. Pushpinder Yadav, Advocate)

Versus

1. Govt. of NCT of Delhi
(through Chief Secretary)
5th Level, A Wing, Delhi Secretariat
IP Estate, New Delhi – 110 002
2. Secretary of Education
Govt. of NCT of Delhi
Directorate of Education
Old Secretariat, Delhi – 110 054
3. Director of Education
Govt. of NCT of Delhi
Directorate of Education
Old Secretariat, Delhi – 54
4. Dy. Director of Education
Distt. North – West (B)
FU-Block, Pitam Pura
Delhi – 110 034

...Respondents

(Mr. Vijay Pandita, Advocate)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

The applicant is working as a Trained Graduate Teacher (English) in the Directorate of Education, Govt. of NCT of Delhi.

Disciplinary proceedings were initiated against him by issuing the charge memo dated 15.04.2008. It was alleged that he was in the habit of luring the students for tuition, not marking the presence or absence in the attendance register of students and in the habit of leaving the school at his will, without obtaining the permission of the Head of School.

2. The applicant submitted his explanation denying the allegations. Not satisfied with that, the disciplinary authority ordered inquiry. The inquiry officer submitted a report dated 22.07.2008 holding that the charges against the applicant are not proved. The disciplinary authority issued a disagreement note dated 18.04.2011 and on consideration of the representation of the applicant, it passed an order dated 11.08.2011 imposing the punishment of 'reduction to one lower stage in the time scale of pay for a period of one year' and directing that 'he will not earn increment of pay during the period and on expiry of the period, the reduction will not have the effect of postponing the future increments of pay'.

3. The applicant availed the remedy by filing an appeal dated 04.10.2011, but the same was rejected by the appellate authority through an order dated 19.10.2012. Hence this O.A.

4. The applicant contends that the very basis for initiation of the disciplinary proceedings was an anonymous complaint, and despite the specific directions issued by the Central Vigilance

Commission (CVC) not to initiate disciplinary proceedings on the basis of anonymous or incomplete complaints, the proceedings were initiated against him.

5. It is also stated that the Department failed to prove the charges and though the inquiry officer submitted the report, holding that the charges are not proved, the disciplinary authority issued a defective disagreement note and proceeded to punish him. The applicant contends that the proceedings are vitiated on account of several factors and that the order of punishment by the disciplinary authority, as affirmed by the appellate authority, is liable to be set aside.

6. The respondents filed counter affidavit opposing the O.A. It is stated that on receiving an anonymous complaint, the proceedings were initiated in view of the clarification received from CVC to the effect that if there is supporting material, disciplinary proceedings can be initiated. It is also stated that though the inquiry officer submitted his report, holding that the charges against the applicant are not proved, a disagreement note was issued, and on consideration of the explanation submitted by the applicant, punishment was imposed and that no interference is warranted.

7. We heard Mr. Pushpinder Yadav, learned counsel for applicant and Mr. Vijay Pandita, learned counsel for respondents, at length.

8. The charges framed against the applicant read as under:-

“Article-I

That Sh. Braham Pal Singh, TGT (English) while working in GBSS, Mubarakpur Dabas has been found to lure the students for tuition and make discriminatory behaviour with the students who do not take tuitions from him.

The above act of Sh. Braham Pal Singh, TGT (English) is unbecoming of a Government servant and is in violation of Rule 3 of CCS (Conduct) Rules, 1965.

Article-II

That Sh. Braham Pal Singh, TGT (English) while working in GBSS, Mubarakpur Dabas has been found not to mark the presence or absence in the attendance register of students of class-VI.

Thus, Sh. Braham Pal Singh, TGT (English) failed to maintain devotion to duty and act with in a manner of unbecoming of a Government servant and thereby violated the provisions of Rule 3 of CCS (Conduct) Rules, 1964.

Article-III

That Sh. Braham Pal Singh, TGT (Ensligh) while working in GBSS, Mubarakpur Dabas has been found that during the unit test he has left the attendance column/marks column blank.

The above act of Sh. Braham Pal Singh shows that he has least respect for the Departmental norms and failed to maintain devotion to duty and acted in a manner which is unbecoming of a Government servant and is in violation of Rule 3 of CCS (Conduct) Rules, 1964.

Article-IV

That Sh. Braham Pal Singh, TGT (English) while working in GBSS, Mubarakpur Dabas has been found in the habit of leaving the school at his will without obtaining the permission of the HoS. When he was asked for his absence by the HoS, he behaves rudely by using filthy language.

The above act of Sh. Braham Pal Singh is subversive of discipline of the school and is unbecoming of a Government servant and is in violation of Rule 3 of CCS (Conduct) Rules, 1964.

9. The basis for initiating disciplinary proceedings against the applicant is an anonymous complaint, said to have been received by the respondents. The complaint does not contain any name of the person or other particulars. In its letter dated 11.10.2002, CVC directed that the disciplinary proceedings cannot be initiated on the basis of an anonymous complaint. However, it was observed that if there are any verifiable facts, in such cases, the matter can be referred to the Commission for further steps. In the instant case, neither any preliminary inquiry was conducted, nor was the matter referred to CVC or any equivalent organization.

10. Assuming that the charges were framed without any legal or factual defects, it needs to be seen as to whether the respondents have proved the same. Before the inquiry officer, the witnesses were examined and certain documents were also filed. The applicant was able to elicit from the witnesses that they did not have any material to prove that he lured the students for tuition and left blanks in the attendance register or he left the school without permission. Taking these aspects into account, the inquiry officer submitted a report holding that the charges are not proved.

11. It was certainly competent for the disciplinary authority to disagree with the findings of the inquiry officer. However, he was under obligation to provide valid reasons for the proposal to disagree, and the note should indicate his tentative conclusion. In this case, the disciplinary authority straightway observed that the findings of the inquiry officer are not accepted by him. The opportunity given to the applicant to make a representation was virtually reduced to an empty formality. Added to that, no specific reason was furnished as to how the findings recorded by the inquiry officer are defective.

12. Once the very initiation of the proceedings was untenable, followed by a report of the inquiry officer, holding that the charges are not proved, hardly one finds any basis for the disciplinary authority to impose the punishment upon the applicant. As already mentioned, the disagreement note was also defective. The punishment against the employee cannot be imposed on the basis of unverifiable and unproved facts.

13. We, therefore, allow the O.A. and set aside the impugned order.

14. Before parting, we intend to make certain observations about the standards that are being maintained in the Government institutions. Dr. Sharad Kumar Verma, Principal, GBSSS was appointed as an inquiry officer to inquire the charges. At the conclusion of the report, this is what he said "Hence, the

undersigned is of the opinion that the Charges leveled against Sh. Braham Pal Singh doesn't prove." Mr. Mohan Lal, Vice Principal, GBSS, Mubarakpur Dabas, who figured as witness, did not want to lag behind and seems to have derived inspiration from the Principal. In the course of an inquiry, the final question was put to him viz. "Whether you have found any memo or direction or SCN by the then HOS that the CO behave rudely or used filthy language". His answer was "No, I donot found". The applicant is also a teacher in English and in the representation made by him, he has proved that he is, in no way, inferior to Vice Principal and Principal.

15. It is rather unfortunate that no attention is paid to maintenance of standards. Whatever be the circumstances under which the persons are appointed as teachers, the promotions are also being made without verifying the basic talent of a teacher working. Delhi Schools certainly need something better. It is hoped that attention would be paid to this aspect.

There shall be no order as to costs.

(Pradeep Kumar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

March 28, 2019
/sunil/