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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH, CALCUTTA**

O.A. No.350/1373 of 2013

In the matter of :

GOUTAM KUMAR SAHOO, son of
Titaram Sahoo, aged about 32 years,
Ex. Teacher (TGT, SC), J.N. Vidyalaya,
R.C. Ghat, West Tripura, permanent
resident of Village & Post : Dasgram,
P.S. Sabang, District : Paschim
Medinipur, West Bengal.

... APPLICANT

V E R S U S

1. **UNION OF INDIA**, service through
the Secretary, Ministry of Human
Resource Department, Department of
School Education and Literacy, Govt. of
India, A-28, Kailash Colony, New Delhi-
110048.

2. **NAVODAYA VIDYALAYA
SAMITY**, Ministry of Human Resource

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Department, Govt. of India, A-28,
Kailash Colony, New Delhi-110048.

3. **THE COMMISSIONER**, Navodaya
Vidyalaya Samity, Ministry of Human
Resource Department, Govt. of India, A-
28, Kailash Colony, New Delhi-110048.

4. **THE DEPUTY COMMISSIONER**,
Navodaya Vidyalaya Samity, Regional
Office at Boring Road, Patna-13.

5. **THE DEPUTY COMMISSIONER**,
Navodaya Vidyalaya Samity, Regional
Office at Shillong, Nongrim Hills,
Shillong, Pin-793003.

6. **THE JOINT COMMISSIONER**
(PERS), Navodaya Vidyalaya Samity, A-
28, Kailash Colony, New Delhi-110048.

7. **THE ASSISTANT**
COMMISSIONER (PERS), Navodaya
Vidyalaya Samity, A-28, Kailash
Colony, New Delhi-110048.

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8. **THE PRINCIPAL,** Jawhar
Navodaya Vidyalaya, West Tripura,
Ramchandra Ghat, Khowai, West
Tripura, Pin-799207.

9. **THE PRINCIPAL,** Jawhar
Navodaya Vidyalaya, 82, Miles, District
: Dhalai, Tripura, Pin-799001.

10. **THE PRINCIPAL,** Jawhar
Navodaya Vidyalaya, Howrah, P.O. &
P.S. Bagnan, District : Howrah, Pin-
711404.

11. **MRS. MAUSUMI NAG (Inquiry
Officer),** The Principal, Jawhar
Navodaya Vidyalaya, North 24-
Parganas, Banipur, District : North 24-
Parganas, West Bengal, Pin-743233.

12. **Mr. RANGAN BHADURI**
(Presenting Officer), Office
Superintendent, Jawhar Navodaya
Vidyalaya, Sheikhpura, Bihar, Pin-
811105.

... RESPONDENTS

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**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**

O.A. 350/001373/ 2013
MA 456/2013

Order dated: 07.08.2019

**Coram : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member**

Goutam Kumar Sahoo

..... Applicant.

Versus

Union of India & Ors.

..... Respondents.

For the applicant : Mr. S.K. Dutta, Mr. B. Chatterjee, Counsel

For the respondents : None

ORDER (ORAL)

Per Dr. Nandita Chatterjee, Administrative Member:

The relief claimed by the applicant has a chequered history, and has traversed many rounds of litigation prior to filing of the present O.A.

2. The applicant was a Teacher (TGT, Science) engaged in Navodaya Vidyalaya Samiti. On January 16, 2007, he was served with an order of suspension on the allegation of immoral sexual behavior on account of sexual harassment of a minor girl, who was a student.

3. Upon conduct of an inquiry, the applicant was placed under suspension and transferred to another school. He was thereafter issued with a charge memorandum by way of initiation of disciplinary proceedings. The applicant denied all the charges, and, at the same time, approached the Tribunal by filing O.A. No. 1326/2008. The Tribunal dismissed the O.A. and vacated the interim order directing the Respondents to proceed further in the disciplinary inquiry. The

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proceedings culminated in his removal from service, and, being aggrieved with dismissal order of the Tribunal, the applicant approached the Hon'ble High Court of Calcutta in W.P.C.T. No.93/2011. The Hon'ble High Court dismissed the said Writ Petition, and, thereafter, the applicant, once again approached the Hon'ble High Court of Calcutta in CAN No. 11689/2012. While disposing of the same, the Hon'ble High Court of Calcutta upheld the orders of the Tribunal but observed that the applicant would be at liberty to challenge the order of termination, as merged in the order of the Appellate Authority, before the Tribunal. The applicant, thereafter, preferred the instant O.A. in which, inter alia, he has challenged the orders of the Appellate Authority dated 13.01.2012.

4. The Tribunal, while issuing its earlier orders in O.A. 1326/2008, had elaborately discussed on merit the scope of quashing the entire disciplinary proceedings as well as the legality and propriety of charges while dismissing the O.A. Accordingly, seeking relief on the same cause of action is not available to the applicant as he is barred by res judicata.

5. The Appellate Authority's order, however, had been issued thereafter and as the applicant has challenged the same in the present O.A., we proceed to examine the orders of the Appellate Authority, which is annexed at Annexure-A/14 to the O.A. The orders of the Appellate Authority is reproduced below:

"F.No. 9-2/2007-NVS(Estt.)/705

Dated 13.01.2012

OFFICE ORDER

WHEREAS, Shri G.K.Sahoo, TGT (Science) was chargesheeted vide OM No. Inquiry/G.K.sahoo/Admn./NVS(PTR)/2008/1156 dated 11/22.4.2008 by the Disciplinary Authority, Deputy Commissioner, NVS, RO Patna. Shri Sahoo was allegedly indulged in sexual harassment towards a minor girl student of class IX in terms of proposing her to marry, offering her gold chain, letter, and

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greeting card, despite the fact that he was a married person and his wife was also working as TGT (Bengali) in the same Vidyalyaya.

AND WHEREAS, on conclusion of the departmental inquiry against him he was removed from the services of the Samiti vide order dated 27.10.2010 of the disciplinary authority.

AND WHEREAS, Shri Sahoo had filed an OA No. 1326/2008 before Hon'ble CAT Calcutta Bench challenging the disciplinary proceedings against him. The Hon'ble CAT vide its order dated 22.2.2011 had pronounced the judgement as under:

"After careful consideration of the facts and submission narrated above, we are of the considered opinion, in the incident of sexual harassment toward, a minor girl student, there was no need to issue charge sheet. The preliminary enquiry is enough. In the preliminary enquiry, the allegation against the applicant has been proved based on the written submission of the concerned girl student and other witnesses. The applicant was given sufficient opportunity to participate in the inquiry. Under these circumstances, the judgement of the Hon'ble Supreme Court para 8 to 11 in the case of Director NVS-Vs-Babban Prasad Yadav and another reported in 2006 SCC(L&S) 891 is squarely applicable. In respect of interference in the charges, the judgement relied by the respondent UOI Vs-Kunisetty Satyanarayana (2006) 12 SCC 28 is applicable.

The judgment referred by the Id. Counsel for the applicant relates the service matter under Rule 8 of W.B. Services (CCA) Rules 1971 and Section 4 of Cr. P.C. 1973 fact of the said case and facts of the present case are different, the said judgement has no relevance to this case. We apply the judgement of the Hon'ble Supreme Court in the case of Babban Prasad supra and Kunisetty Satyanarayana supra. The charges framed in this case are in accordance with NVS Regulations, hence our interference to quash the charges, against the law laid down by the Hon'ble Supreme Court in the case of District Forest Officer-Vs-R. Rajamanickam supra."

AND WHEREAS, Shri Sahoo had filed a writ petition No.93/2011 before Hon'ble High Court of Calcutta challenging the order of the Hon'ble CAT. The Hon'ble High Court of Calcutta vide its order dated 23.6.2011 had upheld the penalty of removal from services and declined to interfere with the well considered order of the CAT.

NOW THEREFORE, in view of the aforementioned facts and circumstances the appeal of Shri G.K.Sahoo stands disposed of being devoid of merit.

(Alok Verma)

Joint Commissioner (Admn.)"

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6. The main grievance of the applicant is that the Appellate Authority quoted verbatim the orders of the Tribunal in O.A. No. 1326/2008, and, there is no evidence that the Appellate Authority had applied his mind while issuing the said order.

7. We agree with the contentions of the Ld. Counsel for the applicant inasmuch the Appellate Authority has merely passed his orders quoting the observations of the Tribunal and has not brought forth any discussion on the issues raised by the applicant in his appeal dated 15.07.2011 (Annexure-A/13 to the O.A.). Accordingly, we remand the matter back to the Appellate Authority to pass a reasoned and speaking order on examination of each of the issues raised by the applicant in his appeal dated 15.07.2011 (Annexure-A/13 to the O.A.) within a period of 16 weeks from the date of receipt of a copy of this order and communicate the order to the applicant forthwith thereafter.

8. The M.A. bearing No. 456/2013, arising out of O.A. No. 1373/2013, praying for condonation of delay, is allowed as the delay is of about seven months, and, has mostly occurred due to the applicant's efforts in obtaining certified copies of orders in his earlier rounds of litigation.

9. Accordingly, O.A. as well as M.A. is disposed of. There will be no orders as to costs.

(Dr. Nandita Chatterjee)
Member (A)

(Bidisha Banerjee)
Member (J)