

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING : GWALIOR

Original Application No.202/00217/2016

Gwalior, this Wednesday, the 16th day of October, 2019

HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

Rajesh Prasad Soni, S/o Shri Arjun Prasad Soni, aged : 41 years, Occupation : Service – presently posted as PGT (Commerce), Kendriya Vidhyalaya No.2, Airforce Station, Maharajpura, Gwalior – 474020 (M.P.) **-Applicant**

(By Advocate – Ms. Smrati Sharma)

V e r s u s

1. Union of India through Secretary, Ministry of H.R.D., New Delhi – 110001.

2. Deputy Commissioner, Kendriya Vidhyalay Sangthan, Region Area, Grand Parade Road, Agra (U.P.) – 282001.

3. Principal, Kendriya Vidhyalaya L.B.S.N.A.A., Pologround, Mussoorie, Uttarakhand – Pincode 248179.

4. Principal Kendriya Vidhyalaya No.2, Airforce Station, Maharajpura, Gwalior (M.P.) - 474011 **-Respondents**

(By Advocate – Shri Ashish Saraswat)

O R D E R (O R A L)

By Navin Tandon, AM.

The applicant is aggrieved by recovery of Rs.12008.25 as loss of teaching aid articles.

2. The applicant has made the following submissions in this

O.A:

2.1 He is presently holding the post of Post Graduate Teacher (PGT) Commerce and is posted at Kendriya Vidhyalaya No.2, Gwalior.

2.2 Earlier he was posted as PGT in KV Mussoorie where he was holding the charge of teaching aids of the Institution.

2.3 On his transfer from Mussoorie, he joined Gwalior on 25.06.2015 (sic 2014). Subsequently, respondent No.3 issued letter dated 29.08.2014 (Annexure A-1) for recovery of Rs.12008.25 from the outstanding dues of the applicant. The applicant avers that the entire stock, which he took over in June, 2013, has been handed over to Smt. Vandana Shrivastava in the month of June, 2014 and during his tenure, there was no loss of any article.

2.4 Aggrieved by the aforesaid action on behalf of respondent No.3, the applicant preferred departmental appeal dated 09.02.2015 before respondent No.2. Since the same was not decided, he approached this Tribunal in Original Application No.202/00705/2015, which was disposed of vide order dated 18.08.2015 (Annexure A-8) with a direction to decide the representation within one month from the date of receipt of copy of the order.

2.5 Accordingly, the respondent No.2 has decided the appeal and upheld the recovery of Rs.11109.25 vide its order dated 08.12.2015 (Annexure A-2).

3. The applicant has, therefore sought for the following reliefs:

“RELIEF SOUGHT:-

In view of the facts mentioned in Para 4 above, the applicant prays for the following relief(s) :-

8.1). That, the impugned orders contained in Annexure-A/1, A/2 and A/3 may kindly be quashed and the respondents may kindly be directed to refund entire amount recovered from the pay of the applicant in pursuance to the other Annexure – A/1 and A/3 alongwith 18% per annum interest.

8.2). Cost of the petition be awarded or any other order or direction deemed fit in the circumstances of the case be issued in favour of the petitioner.”

4. The respondents have filed their reply in which they have made the following submissions:

4.1 The recovery against the applicant was made due to loss of teaching aid items.

4.2 The applicant, when transferred to KV No.2, Gwalior, handed over charge to Ms. Vandana Shrivastava without information and counter signature of concerned Principal.

4.3 A large number of memorandums were issued to the applicant by the Principal (collectively Annexure R-3) during his tenure at K.V./Mussoorie.

4.4 When the charge was handed over by Shri Devanand to the applicant on 05.06.2013, the entry was counter signed by the concerned Principal (Annexure R-1). However, when the charge was handed over to Smt. Vandana Shrivastava on 21.06.2014, the same was not counter signed by the Principal (Annexure R-2).

4.5 As per KVS Account Code Article No.187 (Annexure R-5), in case of any deficiency, the responsibility is with the stock holder. Therefore, the deficiency in stock has been evaluated and as per procedure, the same has been recovered from the applicant.

4.6 The amounts of Rs.12008.25 has been reduced by Rs.899/- as the said material was subsequently taken over by Smt. Vandana Shrivastava.

4.7 The applicant was transferred and he was relieved without issuing No Dues Certificate that is to say that dues were not recovered at the time of relieving.

5. Heard learned counsel for the parties and perused the pleadings available on record.

6. Learned counsel for the applicant submitted that perusal of Annexure R-1 and R-2 clearly indicates that whatever stock the applicant has received from Mr. Devanand in June, 2013, has been handed over to Smt. Vandana Shrivastava in June, 2014 at the time of his transfer from Mussoorie to Gwalior. Subsequently, without giving any show cause notice to the applicant, recovery has been made for shortage of stock, which is against the principles of natural justice.

6.1 She places reliance on a decision of Hon'ble Apex Court in the case of **Kranti Associates Private Limited and another vs. Masood Ahmed Khan and others**, (2010) 9 SCC 496 to say that the order of the Appellate Authority dated 08.12.2015 (Annexure A-2) is not a speaking order and, therefore, deserves to be quashed.

7. Learned counsel for the respondents submitted that the applicant did not get the signatures of the Principal while handing over the charge by Smt. Vandana Shrivastava. Further, the KV, Mussoorie has not issued NOC in favour of the

applicant. Also, there are lot of over writings in the Register which is virtually fraud committed by the applicant.

7.1 Learned counsel for the respondents took us through Article 187 of KVS Account Code (Annexure R-5), wherein it has been very clearly stated that the stock holder is responsible for any loss in the stock other than except theft. Procedure has also been given with regard to recovery to be made. Therefore, the respondents have acted in a correct manner in order to make recovery from the applicant.

FINDINGS

8. It has been brought out in the O.A that the recovery is a penalty under Rule 11 of the CCS (CCA) Rules, 1965. Perusal of the order dated 08.12.2015 (Annexure A-2) also indicates that respondent No.2 has decided the applicant as if it is a proceeding under CCS (CCA) Rules and has decided the appeal against the order of the Disciplinary Authority. However, it was clarified by both the parties as well as documents available on record that no chargesheet was served to the applicant before initiating recovery of Rs.12008.25. Therefore, it is not a case of disciplinary proceedings against the applicant as per CCS (CCA) Rules.

9. Further the order dated 08.12.2015 (Annexure A-2) has not dealt with any of the points which have been raised by the applicant in his representation/appeal.

10. Hon'ble Supreme Court in the matters of **Kranti Associates** (supra) has held as under:

“47. Summarising the above discussion, this Court holds:

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(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

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XXX

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or “rubber-stamp reasons” is not to be equated with a valid decision-making process.”

11. It is absolutely clear from the law laid down by the Hon'ble Apex Court that even the administrative orders have to be reasoned and speaking and it should indicate the thoughts in the decision making process so that the party aggrieved can take appropriate steps in the matter. In the instant case, the order dated 08.12.2015 (Annexure A-2) is a non speaking order and does not pass the test on touchstone of the law as cited above.

12. Learned counsel for the applicant has been able to make out a case that no opportunity has been given to the applicant to prove that there was no loss in the stock during his tenure of one year at Mussoorie.

13. Accordingly, we have no hesitation in quashing Annexure A-1, A-2 & A-3 in the matter.

14. In the result, Annexure A-1, A-2 & A-3 are quashed and set aside. Respondents are at liberty to conduct a fact finding enquiry associating the applicant in the same and pass a reasoned and speaking order.

15. The O.A is disposed of in the above terms. No costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

am/-