

(2012) 04 DEL CK 0474
In the Delhi High Court
Case No : Writ Petition (C) 1961 of 2012

Raj Singh

APPELLANT

Vs

Kendriya Vidyalaya Sangathan and Others

RESPONDENT

Date of Decision : 10-04-2012

Acts Referred:

Citation : (2012) 4 AD 329 : (2013) 2 SLJ 246

Hon'ble Judges : V.K. Jain, J;Badar Durrez Ahmed, J

Bench : Division Bench

Advocate : R.V. Sinha and Mr. R.N. Singh, for the Appellant; S. Rajappa, for the Respondent

Final Decision : Dismissed

Judgement

Badar Durrez Ahmed

1. The petitioner is aggrieved by the order dated 09.08.2011 passed in OA 3308/2010 whereby the Central Administrative Tribunal, Principal Bench, New Delhi dismissed the petitioner's said original application. Before the Tribunal, the petitioner had challenged the order of the Disciplinary Authority dated 19.04.2007 and also the order of the Appellate Authority dated 16.12.2008. By virtue of the order dated 19.04.2007, the Disciplinary Authority had imposed a penalty of reduction of pay upon the petitioner for a period of two years with the further direction that he would not earn any increment during the said period of two years and that the same would have the effect of postponing his future increments.

2. The appellate order dated 16.12.2008 had confirmed the order of the Disciplinary Authority. The petitioner also sought revision and the same had been rejected by the Commissioner on 04.06.2010. The said orders were passed upon a chargesheet dated 08.11.2004 which was issued to him. The petitioner had received the said chargesheet while he was working as a Post Graduate Teacher (Biology) in Kendriya Vidyalaya, Bulandshahar. The chargesheet contained the

following allegations:-

- (i) assaulting one Sh. Prakash Joshi the then LDC of the school,
- (ii) misbehaving with the then Vice-Principal of the school,
- (iii) arranging criminal attack on a lady teacher on failure to achieve his sexually motivated objectives,
- (iv) entering into direct correspondence with higher and outside authorities without following the procedure.

3. An inquiry was held and the Inquiry Officer came to the conclusion that Article Nos. (ii) and (iv) were proved against him whereas the other articles of charge could not be established against the petitioner. The Disciplinary Authority concurred with the findings of the Inquiry Officer and imposed the penalty mentioned above. The Appellate Authority also rejected the petitioner's appeal. His revision petition was also dismissed. Being aggrieved, the petitioner approached the Tribunal for setting aside the said orders.

4. Before the Tribunal, the petitioner made submissions with regard to the two articles of charge namely Article Nos.(ii) and (iv) which had been held to have been proved. It was submitted by the petitioner that insofar as Article No.(ii) is concerned, there was no evidence to support the said charge of alleged misbehavior of the petitioner with the Vice Principal and that the same was solely based on the complaint letter and the testimony of the Vice Principal. The Tribunal examined the entire material on record and went through the report of the Inquiry Officer in detail and came to the conclusion that this was not a case of no evidence as there was the clear testimony of the Vice Principal.

5. We see no reason to interfere with the conclusion arrived at by the Tribunal. This is so because it is a settled principle of law that insofar as the disciplinary proceedings are concerned, neither the Tribunal nor this Court enters into re-appreciation of evidence. If there is some evidence to support the conclusion arrived at by the Inquiry Officer and the Disciplinary Authority, neither the Tribunal nor this Court would return its finding in place of that of the lower authorities. This is clearly not a case of no evidence and, therefore, no interference is called for.

6. Insofar as Article (iv) is concerned, the plea taken by the petitioner was that the letters which have been relied upon by the Inquiry Officer to return a finding against him did not form part of the chargesheet and were supplied to him at a later stage when he did not have an opportunity to challenge the authenticity of the documents.

7. We find that the letters that are in question were written by the petitioner himself. Furthermore, he does not challenge the fact that he had sent those letters. Therefore, we fail to understand as to how any prejudice would have been caused to the petitioner by the supply of the copies of the said letters at a

later stage i.e. at the time of the conclusion of the prosecution case. Once the petitioner has admitted that he had infact sent those letters, there was no question of any prejudice having been caused to him.

8. Consequently, we cannot accept the plea of the petitioner that he was denied a reasonable opportunity to challenge the authenticity of the said documents inasmuch as the petitioner himself admitted the said documents. The petitioner had also admitted that there was no inscription of "advance copy" on any of the letters. Therefore, the said Article of charge stands established against the petitioner. We see no reason to interfere with that finding either.

9. Consequently, there is no merit in this writ petition and the same is dismissed. There shall be no order as to costs.