

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11954 of 2011

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1. The Commissiioner, Kendriya Vidyalaya Sangathan Ministry Of Human Rsources Department, Government Of India, New Delhi (The Commissioner, Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi - 110602) Through Joint Commissioner (Adm.)
 2. The Joint Commissioner (Administration) Kendriya Vidyalaya Sangathan Headquarters, 18, Institutional Area, S.J.S. Marg, New Delhi

.... Petitioner/s

Versus

1. Ram Prasad Singh S/O Late Jang Bahadur Singh R/O Vill.- Sulemanpur, P.S.- Kako, Distt.- Jehanabad, Then Principal, Kendriya Vidyalaya, Danapur Cantt., Patna
2. The Union Of India Through The Secretary Human Resources Department, Government Of India, New Delhi
3. The Director, Central Vigilance Commission Government Of India, Satarkata Bhawan, A-Block, G.P.O. Complex, New Delhi
4. Mr. S. Selvaraj, Assistant Commissioner-Cum-Conducting Officer Of The Departmental Inquiry Kendriya Vidyalaya Sangathan, Regional Office, Lohiya Nagar, Kankarbagh, Patna
5. Mr. Somit Srivastava, Education Officer-Cum-Presenting Officer Of The Departmental Enquiry Kendriya Vidyalaya Sangathan, Regional Office, Lohiya Nagar, Kankarbagh, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. K. Ravish

For the Respondent/s : Mr. Jagannath Singh

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 08-09-2015

The Kendriya Vidyalaya Sangathan is the writ petitioner, challenging the order dated 16-12-2010 passed in O.A. No. 341 of 2009 by the Central Administrative Tribunal, Patna Bench, Patna. The said original application was filed by the contesting respondent no.1 and was allowed. He had

challenged before the Tribunal the order of his dismissal from service as a Principal. We would refer to the contesting respondent as 'the Teacher' and the writ petitioner i.e., Kendriya Vidyalay Sangathan as 'Sangathan' for brevity.

2. The Teacher was charged primarily with forged/dubious documents, first to seek employment and/or post in the Sangathan, and then when chance came to seek appointment as a Principal in the School of the Sangathan. Thus, basically the charge is on two occasions. He had used forged/dubious documents in absence of which he could not have got position, and that being so, he had been dismissed from service at the fag end of an otherwise unblemished outstanding service as a teacher. Ordinarily, we would have sympathy with the Teacher of such good record, but that, in the facts to be noted, would be a misplaced sympathy.

3. The facts are peculiar, though not in dispute. In 1966 the Teacher passed Matriculation examination in first division, being the best student of the District-Gaya. He did his Pre-University(now Intermediate) from 1966 to 1967 from Patna University. From 1967 to 1970 he completed B.A. Honours in Economics from Patna University.

4. In 1974 he joined as Ad-hoc teacher in Kendriya Vidyalay under the Sangathan as Post Graduate Teacher in Economics. In 1975 pursuant to Advertisement he applied for the post of permanent Trained Graduate Teacher in the Sangathan. This position required him to have a teaching experience. Having been appointed, he joined as Trained Graduate Teacher in the Sangathan, and ultimately he was confirmed as permanent Trained Graduate Teacher on 3-9-1977. He continued as Trained Graduate Teacher till 1985. In 1986 he applied for the post of Post Graduate Teacher in the Sangathan itself. This required teaching experience of about 15 years. From 1974 to 1985 there was no problem,



because he was already in the Sangathan as a Teacher. To cover the extra period, he gave certificate to show that in between 1970 to 1973 he was working as an Assistant Teacher in a School at Gaya, and on basis thereof he was selected and appointed as Post Graduate Teacher in the Sangathan. He had a very good record as a Teacher. In 1995 he applied for the post of Principal. It appears that the previous experience of a head of an educational institution was a requirement. Then also he gave a certificate that in between 1970 and 1973 he was Headmaster of a High School at Dhanbad. Taking this into account, he was selected and appointed as a Principal. Subsequently, enquiries were made to verify this certificate of Headmastership. The Secretary of the School at Dhanbad then gave in writing that this Teacher was not known to the institution. He had never been the Headmaster of the School. In fact, who was the Headmaster during that period, was also disclosed. When he was confronted with this, he immediately got another certificate from the same very Secretary, who certified that he had been the Headmaster of the Senior Secondary School of the said School at Dhanbad, and not of High School. Seeing this, further enquiries were made with regard to initial appointment, and more facts came to light. Firstly, the certificates which he had produced in 1985 to secure the position of Post Graduate Teacher showing that he had been the Assistant Teacher in a School at Gaya in between 1970 and 1973, the authorities were surprised that on the one hand earlier he had claimed that he was Assistant Teacher in a Private School in Gaya in between 1970 and 1973, and now he says that he was Headmaster of a Senior Secondary School at Dhanbad during the period from 1970 to 1973 itself. The two cannot be correct. A further enquiry revealed that having completed his B.A. Honours in Economics from Patna University in 1970, he had joined M.A. course at Patna University in 1970 which he completed in 1972. This added further twist in the matter. Further



enquiries revealed that he had given his final examinations and the results of B.A. Honours were declared in September 1970, whereas he had claimed that he had joined the service as Headmaster in the Senior Secondary School at Dhanbad in May, 1970 itself i.e., even before he graduated. Noticing these dubious documents, the Sangathan not only started departmental proceedings against the Teacher, but instituted a criminal case as well. For whatever may be the worth, it may be noted that the criminal case, after investigation, ended in final form, which was accepted by the Criminal Court, but upon protest-cum-complaint being filed, cognizance was taken, and the trial is still pending. In the disciplinary proceedings the facts, as noted above, were not disputed by either party. The enquiry report was adverse to the teacher, and thereafter he was dismissed by the order of the Disciplinary Authority. Without availing the appellate forum, he moved the Tribunal. The Tribunal set aside the order of the Disciplinary Authority on technicalities, and that is how the Sangathan is before this Court.

5. On behalf of Kendriya Vidyalay Sangathan it is submitted that all facts apart, the undisputed facts are that the contesting respondent claimed that in between 1970 and 1973 he was pursuing his Post Graduation. He then claimed that in this period i.e., from 1970 to 1973 he was an Assistant Teacher in a Private School at Gaya, and then in the same period i.e., from 1970 to 1973 he claimed to be the Headmaster of a Private Senior Secondary School at Dhanbad. All these three formed the basis, on which, first he secured the position as Ad-hoc Teacher, and then as Post Graduate Teacher in the Sangathan, and then as a Principal of the Sangathan. In absence of either of them, he would not have been where he reached i.e., post of Principal. If these are not being denied, then nothing remains for the Sangathan to establish. The contesting respondent is not in a position to deny any of three positions which he had taken. He cannot deny that



he was a student of M.A. in between 1970 and 1973. He is unable to deny that he had used the certificate of Assistant Teacher in between the same period to get the job of a Teacher in the Sangathan. He is not in a position to deny that for the same period he had used the certificate of Headmastership to secure the position of a Principal, but he is unable to explain as to how all the three are possible simultaneously i.e., that he became the Headmaster in fact even before he finished Graduation, what to talk of Post Graduation. He was either a Headmaster or an Assistant Teacher at Dhanbad or at Gaya, as the case may be, while apparently he was studying for his Post Graduation. The three are not to be possible at any given point of time. If one is correct, then the other two are wrong or false. He could not be studying in M.A. at Patna, being the Headmaster at Dhanbad, being Assistant Teacher at Gaya at the same time in between 1970 and 1973. Thus, there cannot be any denial that these certificates, specially in relation to an Assistant Teacher of a Private School at Gaya and being the Principal of a Private Secondary School at Dhanbad are false, incorrect or dubious. If that be so, and the contesting respondent not being in a position to explain, there is nothing left but to find him guilty of serious misconduct. It was not a fact or a situation where normally the Tribunal should have interfered, and that too merely on technicalities.

6. We would, accordingly, allow this writ petition and set aside the order of the Tribunal, restoring the order of the Disciplinary Authority.

7. But, before we part, having looked at the various certificates or commendation received for good work done as a Teacher, and this dismissal being at the very fag end of an otherwise illustrative career, we would only observe that it may be a case where the Disciplinary Authority may reconsider the punishment aspect. For depriving all his life savings and retiral benefits at the end

of his career would be a bit excessive punishment. He could be appropriately dealt with by compulsorily retiring him with slight diminished retiral benefits, as would be permissible.

8. We would, accordingly, with the aforesaid observation allow this writ petition, restoring the order of the Disciplinary Authority.

(Navaniti Prasad Singh, J)

BK.Roy/-

AFR

(Nilu Agrawal, J)

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