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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Decided on: 22.08.2014

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W.P.(C) 369/2008

SH. LACHI RAM SHARMA

..... Petitioner

Through : Sh. Sarvesh Bisaria with Sh. Prakash
Chandra Sharma, Advocates.

Versus

KENDRIYA VIDYALAYA SANGATHAN AND ORS.

..... Respondents

Through : Sh. S. Rajappa, Advocate.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE VIPIN SANGHI

MR. JUSTICE S. RAVINDRA BHAT (OPEN COURT)

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1. We have heard learned counsel for the parties.
2. The petitioner is a Group-D employee who had initially joined the services of the respondent, Kendriya Vidyalaya Sangathan (KVS), on 10.12.1986. He was issued with a charge sheet on 13.10.1998, alleging *inter alia* that the Transfer Certificate produced by him while securing the appointment, upon verification, disclosed that a wrong registration number appeared on the face of the document. The Articles of Charge, in effect, alleged that the petitioner had obtained employment on false premises and that he had misrepresented his age.

3. The petitioner resisted the disciplinary proceedings; an enquiry was held. During the course of enquiry, the witnesses whose statements were sought to be relied upon, refused to testify or sign the proceedings before the Enquiry Officer. However, the Enquiry Officer relied upon certain materials in the form of copies of certificates furnished by Kisan Inter-College, Parsola, Bulandshahar, U.P. On the basis of these, a report was furnished that led to the petitioner's dismissal.

4. The petitioner preferred an application, being O.A. No.516/2003 before the CAT, challenging the dismissal. During the course of those proceedings, the CAT was of the view that having regard to the materials on record, a proper enquiry was necessitated and accordingly directed as follows on 04.03.2004:

“9. Having regard to the aforesaid contention, without dealing with the other contentions of applicant, OA stands disposed of with a direction to the respondents that as they are in possession of the clarification sent by registered post on 11.5.1999, which is not disputed the same shall be sent for verification through a responsible officer of respondents. Applicant shall also be informed about this verification and be allowed participation.

10. If on verification the aforesaid document proves to be genuine certifying as correct date of birth and the educational qualification respondents shall thereafter review the order of penalty and take appropriate steps to bring back applicant in service. The aforesaid directions shall be complied with, within a period of two months from the date of receipt of a copy of this order.”

5. A Vice-Principal ranking officer of the KVS appears to have gone to the concerned institution, namely Kisan Inter-College, Parsola, Bulandshahar, U.P. and furnished a report. The CAT went through that report and observed that based upon the observations and notings of the Vice-Principal who visited the said institution, that entry no.2770, which reflected the petitioner's name, was found to be on the record with different printing as compared with other pages and that the signatures of the Principal were not available except the names of the children, since all other entries were termite eaten. It accepted the report which suggested that the certificate itself was not genuine.

6. The records of the KVS – i.e. the records of the departmental enquiry, the documents furnished at the stage of conducting of the enquiry and the verification report dated 23.09.2004 are on the record of the KVS and have been seen by us. It is apparent from the impugned order that the CAT went almost exclusively by the observations noted by the Vice-Principal of the KVS in the verification report and virtually endorsed them as “findings”. The record does not contain a copy of the relevant documents, critically, the extract which has been adverted in the petition, nor do any statements of the concerned employees or officers responsible in the institution, i.e. Kisan Inter-College, Parsola, Bulandshahar, U.P. appear in the record. In these circumstances, we are of the opinion that the CAT's order cannot be supported.

7. The above observations would have been ordinarily dispositive of the present case; the Court might well have remitted the matter for reconsideration by the CAT. However, we notice that the petitioner was terminated from service in 1999 and that another remand would entail hardship. Learned counsel for the petitioner, therefore, requested that this Court itself pass appropriate orders for enquiring into this aspect, a course which was acceptable to the learned counsel for the KVS. In the light of the above discussion, following directions are issued:

(a) The Registrar General of this Court shall nominate a judicial officer presently working as Joint Registrar, in this case, for the purposes of holding an enquiry;

(b) The Joint Registrar so nominated shall either personally visit or call for the records and submit a report as to the nature of the documents and whether the petitioner's name indeed appeared in S.No.2770 of the appropriate register containing a record of Transfer Certificate and School Leaving Certificate issued by the said institution. In this regard, the Enquiry Officer shall also record the statements of the concerned officers or employees of the said institution who maintained the records and also ensure that the photocopies or copies of the said disputed document/documents, derived from any other format – scanning, photograph etc. are placed on the record along with the Enquiry Report. The Enquiry Officer shall indicate his observations as to the genuineness of the original

documents and any other remarks that he may think, are appropriate in this regard.

8. The Enquiry Officer shall record his findings/observations with regard to the genuineness of the clarification letter dated 09.01.1999. The petitioner had relied upon it and stated it to have been issued by the said institution. The Enquiry Officer shall complete the entire proceedings and furnish his report within 3 months from today. The parties shall be entitled to take part in the enquiry process.

List on 10.02.2014, for directions.

A copy of the order shall be furnished *dasti* to the parties.

S. RAVINDRA BHAT
(JUDGE)

VIPIN SANGHI
(JUDGE)

AUGUST 22, 2014/ajk