

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22058 of 2019

Sanjay Kumar Thakur, Son of Late Gangadhar Thakur, Resident of Village-Rangra, Via-Naugachia, P.s.-Gopalpur, District-Bhagalpur. At present posted as Principal, J.N.V. Waring Khera, District-Muktsar, Punjab.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Human Resources Development Department of School Education and Literacy, Govt. of India, New Delhi.
2. The Commissioner, Navodaya Vidyalaya Samiti, HQ, B-12, Sector-62, Noida (U.P.)
3. The Joint Commissioner (Pers.) NVS, HQ, Noida.
4. The Deputy Commissioner Navodaya Vidyalaya Samiti, Regional Office, Sector-31-A, Chandigarh
5. The Chairman, VMC-cum-Deputy Commissioner, Leh.
6. The Assistant Commissioner, N.V.S. R.O., Chandigarh.
7. The Assistant Commissioner, JNV Samiti, R.O., Chandigarh Camp at Leh.
8. The Deputy Commissioner, Navodaya Vidyalaya Samiti, R O Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Jagjit Roshan, Advocate
For the Navodaya Vidyalaya	:	Mr. K.N.Singh (ASG)
		Mr. Siddharth Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 08-09-2022

Heard learned counsel for the respective parties.

02. In the instant petition, the petitioner has assailed the order of the Central Administrative Tribunal, Patna Bench, Patna (for short “CAT”) dated 30.05.2019 passed in O.A. No. 272 of 2016.



03. The petitioner was subjected to disciplinary proceeding and on 25.02.2015 it was concluded in imposition of penalty of reduction of pay by three stages in the time scale in Pay Band-3 (Rs. 15600-Rs.39100) + Grade Pay Rs.7600/- for a period of five years. Further, he suffered order in appeal on 04.02.2016.

04. The aforesaid relief was rejected by the CAT, hence, the present writ petition.

05. Learned counsel for the petitioner submitted that imposition of penalty was under CCS (CCA) Rules, 1965. He further submitted that relevant discipline rules have not been followed before imposition of penalty.

06. On the other hand, Commissioner-respondent proceeded to impose penalty based on a committee report submitted with reference to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (for short 'the Sexual Harassment Act'). Respondent-department have constituted a committee on 20.08.2014 under the Sexual Harassment Act. Based on certain complaints the committee examined the allegations leveled against the petitioner and proceeded to hold that the alleged allegations were proved. The same has been taken note of by the respondent-Commissioner and proceeded to impose the penalty.



07. It is submitted that the aforesaid action of the disciplinary authority and appellate authority is contrary to CCS (CCA) Rules, 1965 governed by the employees of Navodaya Vidyalaya Samiti.

08. *Per contra*, learned counsel for the respondents fairly submitted on instruction that before imposition of penalty, disciplinary authority has not resorted to invoke relevant provision like CCS (CCA) Rules, 1965 for initiation and imposition of major/minor penalty. Imposition of penalty is under relevant CCA Rules, 1965 , therefore, applicability clause have not been followed by the disciplinary authority and he has straightaway proceeded to impose penalty.

09. In the light of the aforesaid factual aspects of the matter read with the fact that the employees of Navodaya Vidyalaya Samiti are governed by the CCA Rules, 1965 before imposition of penalty on certain misdeeds or misconduct alleged to have been committed by its employee.

10. Admittedly, there were complaints against the petitioner that he was involved in sexual harassment case and rightly disciplinary authority referred matter to the committee constituted under the Sexual Harassment Act and committee was constituted on 20.08.2014. Based on the committee report



disciplinary authority proceeded to impose penalty. It is a case of serious lacuna in not following procedure laid down in the CCA Rules, 1965 governing employees of Navodaya Vidyalaya Samiti before imposition of penalty under the very same Rules. In other words, if action is taken under Sexual Harassment Act by a committee in submitting a report such material would not suffice to impose penalty under CCA Rules, 1965. In the CCA Rules, 1965 power is vested with the disciplinary authority to impose a particular penalty in respect of minor or major penalty only after following procedure for imposition of minor or major penalty under the relevant CCA Rules, 1965. The same has not been resorted and it has been fairly admitted by learned counsel for the respondents.

11. In the light of these facts and circumstances, the impugned orders of the disciplinary/appellate authority dated 25.02.2015/04.02.2016 (Annexure-20 & 22) and order of the CAT dated 30.05.2010 passed in O.A. No. 272 of 2016 are set aside.

12. The disciplinary authority is hereby directed to proceed further in the matter from the date of receipt of Committee's report and proceed in accordance with the relevant CCA Rules, 1965 governing employees of Navodaya Vidyalaya Samiti and complete the inquiry proceedings within a period of six



months from the date of receipt of this order. The petitioner is hereby directed to co-operate in the disciplinary proceedings.

13. With the aforesaid observations, the present writ petition stands allowed in part.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

