



2024:DHC:8855-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 15643/2024 and CM APPLs. 65604-605/2024**
GOVT OF NCT OF DELHI AND ORSPetitioners

Through: Mr. N.K. Singh for Mrs. Avnish
Ahlawat, Standing Counsel

versus

UDAL SINGHRespondent
Through: Mr. S.K. Gupta and Mr. Udit
Gupta, Advocates

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT (ORAL)

% **14.11.2024**

C. HARI SHANKAR, J.

1. The respondent, who was working as Trained Graduate Teacher¹ in the Government Boys Senior Secondary School under the Directorate of Education², GNCTD, superannuated on 31 December 2015.

2. During the currency of his services with the DOE, the respondent was issued a Memorandum dated 1 March 2012³, proposing to hold an enquiry under Rule 14 of the Central Civil

¹ "TGT", hereinafter

² "DOE, hereinafter

³ "the chargesheet", hereinafter



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Services (Classification, Control and Appeal) Rules, 1965⁴. The chargesheet was issued by the Deputy Director of Education (South)⁵. Annexed to the chargesheet, were the Articles of Charge and the Statement of Imputation of Misconduct as Annexure-I and Annexure-II respectively.

3. It is not necessary to enter into the allegations in the chargesheet, as the Central Administrative Tribunal⁶ from whose judgment the present writ petition emanates, has quashed the chargesheet itself as having been issued by the incompetent Authority and we having heard learned Counsel and perused the record, are in agreement with the Tribunal.

4. Suffice it, therefore, to state that an inquiry was held into the allegations contained in the chargesheet; the Inquiry Officer submitted his Inquiry Report on 20 April 2015 holding the allegations against the respondent not to have been proved; the DDE, acting as the Disciplinary Authority issued a disagreement note disagreeing with the findings of the IO and seeking a reply from the respondent; the respondent represented against the disagreement note on 7 September 2015 and the DDE by order dated 30 October 2015, held the charges against the respondent to have been proved and imposed on the respondent, punishment of reduction of pay by three stages till retirement.

⁴ 'the CCS (CCA) Rules', hereinafter

⁵ "DDE", hereinafter

⁶ "the Tribunal", hereinafter



5. The respondent filed a statutory appeal against the punishment order under Rule 23 of the CCS (CCA) Rules. On the said appeal not being decided, the respondent approached the Tribunal by way of OA 3920/2014. The Tribunal, vide order dated 1 June 2015, directed the Secretary (Education), GNCTD as the Appellate Authority to decide the appeal within two months. By order dated 28 July 2015, the Secretary reduced the punishment awarded to the respondent by the DDE to reduction in pay by one stage till retirement.

6. Assailing the above actions, the respondent approached the Tribunal by way of the OA 932/2017, which stands allowed by the Tribunal by order dated 1 December 2023 under challenge herein.

7. Part II of the Schedule to the CCS (CCA) Rules deals with CCS Group 'B' officers. Admittedly, though the respondent at the time he joined service was a CCS Group 'C' officer. All categories of Teachers in the GNCTD were upgraded from Group 'C' to Group 'B', and placed in the Pay Band of ₹ 9300-34800 with grade pay of ₹ 4600/- This fact has been acknowledged by the petitioner / GNCTD in the present writ petition in para 2(i) and (ii) thus:

“i. That Memorandum dated 23.01.1993 was issued explaining the position with regard to initiation of disciplinary proceedings under CCS (CCA) Rules, 1965. It is submitted that the Memorandum stated that "the Head of the Office who have been specified as Appointing Authority in respect of the staff covered under entry 1 of the said notification, are empowered to initiate disciplinary proceedings under Rule 16 of CCS (CCA) Rules, 1965 & also under rule 14 of the Rule ibid ... "

Therefore, the Deputy Director/ Director become the



Competent Authority to initiate the disciplinary proceedings against Group C employees. However, the Chief Secretary remained the competent authority to initiate the Disciplinary Action against the Group B posts.

ii. That, later, the 6th Central Pay Commission was implemented on 1st September 2008. Thereafter, based on the recommendations of the 6th CPC, all categories of Teachers of Government of NCT of Delhi were upgraded to Class II in the Pay Band of Rs. 9300-34800 with Grade Pay of Rs. 4600 and reclassified as Group 'B' from Group 'C' under the Central Civil Service (Classification, Control and Appeal) Rules, 1965.”

8. Mr. N.K. Singh, who appeared on behalf of the petitioner, GNCTD, seeks to submit that for the purposes of disciplinary proceedings, the respondent continues to be a Group ‘C’ officer. This is foreign to us. The respondent could not have been a Group ‘B’ officer for all other purposes and Group ‘C’ officer for the purposes of disciplinary proceedings.

9. We are not dealing with a situation in which disciplinary proceedings were initiated against the respondent prior to 2008 when he was still a Group ‘C’ officer.

10. Part II of the CCS (CCA) Rules was amended in 2010 *vide* Notification dated 2 February 2010, to provide, *inter alia*, that in respect of all posts in the Delhi Administration, the Appointing Authority as well as the Competent Authority to impose penalties, was the Chief Secretary. As such after the said date, the Appointing Authority as well as the Disciplinary Authority for the respondent was the Chief Secretary.



11. As conferment of the power of Disciplinary Authority on the Chief Secretary in all cases was resulting in piling up of disciplinary proceedings, the Chief Secretary put up a note to the Hon'ble Lieutenant Governor on 7 December 2016, which we deem it appropriate to reproduce in full:

“87. Education Department has proposed that Chief Secretary being Appointing Authority in the cases of Nursery Teachers/ Assistant Teachers/ TGTs/PGTs (all non Gazetted Officers) may also function as Competent Disciplinary Authority since these officers have been elevated from Group ‘C’ to Group ‘B’ category by virtue of the 6th Pay Commission’s Report.

88. Accordingly, department has forwarded several cases of Nursery Teachers/Assistant Teachers to the undersigned for issuance of Charge sheet and imposition of suitable penalty being Competent Disciplinary Authority.

89. Department has also informed that a proposal regarding delegation of powers to the Director (Education) to function as Appointing Authority / Disciplinary Authority in respect of above said officers has also been initiated. However, the said proposal is yet to be approved by the Competent Authority.

90. However, Department has informed in another file that as per RRs and advice of Services Department, the Appointing and Disciplinary Authority in respect of the above said officers is still the Director of Education and the said RRs have not been amended so far (copy of relevant extract is placed at Flag- ‘A’-para 51 and 52).

91. Till now, the Director (Education) is the Appointing Authority / Disciplinary Authority and Secretary / Principal Secretary (Education) is the Appellate Authority in respect of the Nursery Teachers / Assistant Teachers / TGTs/PGTs and the Chief Secretary is the Revisioning Authority. If, the Chief Secretary becomes the Appointing Authority / Disciplinary Authority in respect of the said officers, it may lead to accumulation of large number of disciplinary cases at the level of the Chief Secretary and Hon'ble LG being Disciplinary Authority and Appellate Authority respectively. Due to the sheer volume of work, finalisation of D.P. cases may get inordinately delayed. Such a situation would also



affect the functioning of the Chief Secretary and the Hon'ble LG, since the number of posts are about fifty thousand. Moreover, three fold level of jumping from the Director (Education) to the Chief Secretary, Hon'ble LG bypassing Secretary / Principal Secretary (Education) may not be proper and is not called for.

92. In order to avoid delay and expediting the decision of Disciplinary Proceedings, it would be appropriate if, Director (Education) continues to function as Appointing Authority / Disciplinary Authority in respect of Nursery Teachers / Assistant Teachers/TGTs/PGTs (all non Gazetted Officers) as per existing RRs and the advice of Services Department. Considering the above position, it is felt that Education Department should put up the proposal for delegation of the said powers to the Director (Education) at the earliest but definitely within 30 days for approval of this note by Hon'ble L.G.

93. All similar files (8 cases as per list at Flat-'B') will be returned to the Director (Education) for taking further necessary action once the above proposal is approved by L.G.

94. For kind approval.

Sd/-
(Dr. M.M. Kuty)
Chief Secretary, Delhi"

12. Though the aforesaid note observes that till the date of its issuance, the Director (Education) in the DOE was the Appointing Authority and the Disciplinary Authority for Teachers (including TGTs) under the GNCTD, this position may not be entirely correct. It is an acknowledged position that with effect from 14 August 2008, teachers in the GNCTD were placed in Group B for the purposes of the CCS (CCA) Rules. The Authority who is competent to initiate disciplinary proceedings has to be decided as per the CCS (CCA) Rules. After 14 August 2008, therefore, the Disciplinary Authority for the purposes of all officers in the Delhi Administration was the Chief Secretary.



13. As per the recitals in the writ petition, it is admitted that, though the proposal to designate Director (Education) as the Disciplinary Authority for the purposes of Teachers under the DOE was approved by the Hon'ble LG, the approved proposal was sent to the Ministry of Home Affairs for concurrence of the Hon'ble President, so that part II of the Schedule to the CCS(CCA) Rules, could be amended. Despite repeated reminders to the MHA, the said concurrence has yet to be received. As such, under the CCS (CCA) Rules, the Disciplinary Authority for the purposes of Group 'B' officers under the Delhi Administration, continues to be the Chief Secretary.

14. Keeping in view this fact, as also the fact that in the case of the respondent, the chargesheet had been issued not by the Director of Education but by the DDE, the Tribunal has, by the impugned order dated 1 December 2023, held that the disciplinary proceedings against the respondent stood vitiated *ab initio*. The Tribunal has, therefore, quashed the disciplinary proceedings in entirety and has granted consequential reliefs. The operative para 11 of the impugned judgment reads thus:

"11. The OA stands allowed and the impugned orders stand quashed and set aside. As an outcome of these directions, the applicants shall be entitled to all the consequential benefits as would accrue. The Competent Authority amongst the respondents shall ensure that these directions are complied with within a period of eight weeks from the date of receipt of copy of this order. Pending MA, if any, shall also stand disposed of accordingly. However, since we have not looked into specific charges against the applicants nor into the inquiry report and further not even at the orders passed by the various authorities for the reasons already stated above, the respondents shall be at liberty to take appropriate steps, if required, in accordance with law and relevant rules. But



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we make it clear that this liberty shall not be available in the case of *Udal Singh vs. GNCTD* in OA No. 932/2017 on account of the fact that this applicant has since long retired on attaining the age of superannuation.

There shall be no order as to costs.”

15. Aggrieved by the aforesaid decision, the GNCTD has approached this Court.

16. We have heard Mr. N.K. Singh, learned Counsel for the petitioners, and Mr. S.K. Gupta, learned Counsel for the respondent.

17. Mr. N.K. Singh, learned Counsel for the petitioners, submits that, though the respondent was for all other purposes, elevated to Class II of the Group ‘B’ officers from 14 August 2008 consequent on acceptance of the recommendations of the 6th Central Pay Commission, for all other purposes including initiation of disciplinary proceedings, his Appointing and Disciplinary Authority, continued to be the DOE. In as much as the DOE has ultimately passed the punishment order against the respondent, Mr. Singh submits that the Tribunal was not justified in setting aside the disciplinary proceedings against him. He also relies on the fact that the proposal for conferment of disciplinary powers over Teachers in the Delhi Administration as put up by the Chief Secretary had been approved by the Hon’ble LG.

18. Having heard learned counsels for the parties and perused the record, we are unable to agree with the submissions of Mr. Singh and do not find any cause to interfere with the impugned judgment of the



learned Tribunal.

19. Part II of the Schedule to the CCS (CCA) Rules, which dealt with Group B officers, was amended in 2010. The amended Schedule specifically stated that the Chief Secretary would be the competent Disciplinary Authority for all officers in the Delhi Administration.

20. In fact, it was to escape the rigour of this provision that the petitioner wrote to the Hon'ble LG for delegation of the power to act as the Disciplinary Authority to the Director (Education). Admittedly, though the Hon'ble LG approved the said proposal, the matter was thereafter sent for concurrence of the Hon'ble President of India through the MHA so that the Schedule to the CCS (CCA) Rules could be amended. That concurrence, admittedly, is still awaited. The Schedule to the CCS (CCA) Rules, therefore, remains as it is after its amendment in 2010.

21. The position regarding delegation or conferment of the power to act as the Disciplinary Authority on the DOE is, therefore, still inchoate, as things stood on the date when the chargesheet was issued. The Disciplinary Authority for all posts under the Delhi Administration, as per the CCS Group B Rules, continues, therefore, to be the Chief Secretary.

22. Admittedly, the petitioner, pursuant to the acceptance of the recommendations of the 6th Central Pay Commission, was made a Group B Officer w.e.f. 14 August 2008. The chargesheet came to be



issued to the petitioner in 2012. By virtue of the amendment to the CCS (CCA) Rules in 2010, the DDE could not have issued the charge-sheet, and the Director (Education) could not have awarded punishment to the respondent.

23. This position does not change merely because the RRs for the post of Group 'C' officers in the DOE, as they stood at the time of appointment of the respondent, had not been amended. The said RRs would have no application, as the respondent was a Group 'B' officer after 14 August 2008.

24. Besides, the competence to act as disciplinary authority was stipulated in Part II of the Schedule to the CCS (CCA) Rules, and not in the RRs, which were concerned with recruitment. Rule 5⁷ of the CCS (CCA) Rules stipulates that the Central Civil Services would consist of all Service and grades of Services specified in the Schedule thereto. By operation of Rule 9(2)⁸, the Chief Secretary was the appointing authority for all Group 'B' posts in the Delhi Administration. Rule 12(2)(a)⁹ empowered the Chief Secretary, as the "appointing authority, or the authority specified in the schedule in this behalf", to impose, on any CCS officer, any of the penalties specified

⁷ 5. **Constitution of Central Civil Services** – The Central Civil Services, Group 'A', Group 'B', Group 'C' and Group 'D', shall consist of the Services and grades of Services specified in the Schedule.

⁸ (2) All appointments to Central Civil Posts, Group 'B', Group 'C' and Group 'D', included in the General Central Service shall be made by the authorities specified in that behalf by a general or special order of the President, or where no such order has been made, by the authorities, specified in this behalf in the Schedule.

⁹ (2) Without prejudice to the provisions of sub-rule (1), but subject to the provisions of sub-rule (4), any of the penalties specified in Rule 11 may be imposed on –

(a) a member of a Central Civil Service other than the General Central Service, by the appointing authority or the authority specified in the schedule in this behalf or by any other authority empowered in this behalf by a general or special order of the President;



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in Rule 11. The appointing authority, and the specified disciplinary authority in the Schedule to the CCS (CCA) Rules in respect of all Group B officers in the Delhi Administration, was the Chief Secretary.

25. In fact, had this not been the position, no occasion arose for the issuance of the Note dated 7 December 2016 by the Chief Secretary to the Hon'ble LG, seeking conferment of power, on the Director (Education), to act as the disciplinary authority for teachers under the DOE.

26. Viewed thus, we are in complete agreement with the Tribunal that neither was the DDE was not competent to issue the chargesheet wherefrom the Disciplinary Authority against the petitioner emanated, nor was the Director (Education) competent to issue the punishment order dated 30 October 2015.

27. We see no reason, therefore, to interfere with the judgment under challenge.

28. The writ petition is dismissed without any order as to costs.

C. HARI SHANKAR, J.

TUSHAR RAO GEDELA, J.

NOVEMBER 14, 2024/yg

Click here to check corrigendum, if any