

(2020) 09 PAT CK 0138

Patna High Court

Case No: Civil Writ Jurisdiction Case No. 9909 Of 2014

Manoj Kumar

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision: Sept. 8, 2020**Acts Referred:**

- Central Civil Services (Classification, Control And Appeal) Rules, 1965 - Rule 16

Hon'ble Judges: Sanjay Karol, CJ; S. Kumar, J**Bench:** Division Bench**Advocate:** Manoj Kumar, Siddhartha Prasad**Final Decision:** Dismissed

Judgement

Heard learned counsel for the parties.

The prayer of the petitioner in this writ application reads as follows:-

(i) For setting aside the order date 20.01.2014 passed by the Central Administrative Tribunal, Patna Bench, in O.A. No. 458 of 2011.

(ii) For setting aside the order of Deputy Commissioner punishment order vide no. 20595 dated 03.09.2008 along with quashing of office

memorandums dated 28.09.2007 and 20.06.2008 and also for treating null and void appellate order dated 17.12.2009 and review order dated

18.05.2011.

(iii) For the Hon'ble court may be pleased to direct the respondents authorities to pay the cost of un-necessary expenditure by lower and poor

employees, incurred in litigation, pains, sorrow, suffering, mental and financial hardships.

Briefly stated, the facts of the case is that applicant is a trained graduate teacher (Science) working under Navodaya Vidyalaya Samiti since

08.04.1998. A departmental proceeding was initiated for minor penalty vide memorandum dated 20.06.2008 against petitioner under Rule-16 of

CCS(CCA) Rules, 1965 for the charges for directly sending an application dated 24.07.2007 regarding research work on the topic of drop out of cases

to the Director, SCERT, Patna, which was in violation of OM dated 01.11.1999. It transpired that again the applicant who was then a trained

Graduate teacher, Science, at Jawahar Navodaya Vidyalaya, Bikram, Patna, wrote an application to the Deputy Commissioner, NVS, Patna on

10.10.2007 directly by giving a copy to the District Magistrate, Arwal in which he gave directions to the Deputy Commissioner, NVS, RO, Patna by

expressing the language "please keep in mind before issuing of letter of in-charge Principal, JNV, Arwal. PGT/Vice Principal should be given

preference", and thereby the applicant has shown gross disregard to the Regional Officer. It is specifically alleged that the applicant is not

authorized to give suggestions regarding administrative matters to the Regional Officer, but he crossed all the limits and gave directions for

appointment of In-charge, Principal at JNV, Arwal.

Applicant submitted his reply dated 05.07.2008 to the above charges and after considering his reply a minor penalty vide order dated

29.08.2008/03.09.2008 of withholding one increment for a period of two years without cumulative effect was imposed upon the applicant, aggrieved by

which he preferred appeal dated 16.11.2008, which was also rejected as time barred by order dated 18.12.2008, however, subsequently, he filed

another appeal with application for condonation of delay in filing appeal and due to non disposal of his appeal he approached Tribunal through OA

No.542 of 2009 seeking disposal of his appeal and as per direction of the Tribunal the appeal of applicant was disposed of by order dated 17.12.2009

rejecting his appeal against which he preferred revision before the Commissioner, NVS, New Delhi, however, applicant again approached the Tribunal

through OA No. 5 of 2011 for direction to dispose of his revision petition and pursuant to order dated 06.01.2011, the Revisional Authority disposed of

the revision petition by order dated 18.05.2011 rejecting his revision petition.

The Revisional Authority while dismissing the revision petition vide order dated 18.05.2011 of petitioner has held as follows:-

As regards two specific charges, in reply to the first, the applicant has stated that he has sent his application, through proper channel, for doing

research work. After going through the reply and records submitted by the applicant it is observed that the applicant has sent his application dated

24.07.2007 directly to the Director, SCERT, Patna. It is also noted that vide letter no. 941, dated 28.08.2007, the Director, SCERT, Patna has

conveyed displeasure on the procedure adopted by Sh. Manoj Kumar, TGT(SCi), in making correspondence with the State Govt agency, directly,

instead of sending the same through proper channel. It is clearly evident that the application sent by the applicant to the Director, SCERT was not

through proper channel. As per the procedure, the applicant should have submitted the application to his immediate controlling authority i.e. Principal,

JNV, Bikram with the request to forward the same to the Dy. Commissioner, RO, Patna for consideration.

As regard to the second issue, it is to be noticed that there is an inbuilt provision in the school system to discuss the overall functioning of the

Vidyalaya during the staff meetings and to make appropriate suggestion. By sending a letter dated 10.10.2007, directly to the Dy. Commissioner, RO,

Patna, advising him in the administrative matters, like posting of Principals-in-charge, etc the applicant has shown insubordination and also violated the

principles of hierarchy.

And whereas in the reply dated 5.07.2008 the applicant has submitted apology, suggesting that an act of breaching the channel of correspondence has

been committed.

Now therefore, after careful consideration of the records of the case and submissions made by the applicant in his revision petition dated 14.02.2009, it

is held that the orders dated 29.08.2008/03.09.2008 passed by the Disciplinary Authority have been passed after due consideration of the matter, do

not contain any procedural infirmity and hence are upheld and the revision petition dated 14.02.2009 is hereby rejected.

This issues in compliance of the orders dated 06.01.2011 passed by the Honâ€™ble CAT, Patna Bench in OA No. 05/11.

(Manoj Singh)

Commissioner, NVS.â€™

Respondents have further stated that Samiti has been facing extreme difficulties in addressing to the applicant due to his constant approach and

persistent misconducts. Applicant has tried his level best to disrupt the educational activities of the institution. Criminal cases of serious nature

involving forgery is also pending against him in which police has already filed chargesheet against the applicant. Applicant has filed more than 50

cases against his employer and is in habit of overreaching the decision of the higher authorities as well as disobeying the same and is highly

indisciplined employee who has acted against the interest of his employer.

After hearing learned counsel for the parties and considering the materials available on record and perusing the order passed by the Tribunal, this

Court does not find any error or infirmity in the order passed by the Tribunal requiring any interference in its writ jurisdiction, accordingly, writ petition

is dismissed.