GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
DIRECTORATE OF EDUCATION (VIGILANCE BRANCH)
OLD SECRETARIAT, DELHI-110 054.

No.DE.7/1167/DP/Vig/HQ/2013/ Dated :

ORDER

Whereas, Sh. Sunil Gupta, TGT (N. Science) was charge sheeted under rule 14 of CCS (CCA) Rules, 1965 vide memorandum No. F.(46)/DNWA/Vig./DP/2009/1913 dated 28.12.2010 on the following article of charge: -

"Article-I

As per directions of Addl. DE (School) dated 23.05.2007, Sh. R. P. Yadav, EO Zone-XIII and Ms. Indira Ranga, EO Zone-X with zonal level team visited the GBMS, E-Block, Jahangiruri, Delhi on 25.05.2007 presently upgraded as GBSS, E-Block, Jahangirpuri, Delhi.

During the visit the inspection team checked and insected answer scripts of Hindi, English, Maths, N. Science & S. Science, seating plan, invigilation register. Award list of mentioned subjects, broadsheet and final result register. Seating plan for conducting, common annual examination 2007 was not found proper as all the students of section were allowed to sit in a single room and found all the teachers including Sh. Sunil Gupta, TGT (N. Sc.) involved promote the Mass-Cheating and dictating the answers of some questions and to allow the students to copy from another students and to help the students in order to secure pass marks in each subject during Common Annual Examination 2007.

The above act is undesirable on the part Sh. Sunil Gupta, TGT (N. Sc.) being a Govt. teacher who is the role model of their students.

Thus, Sh. Sunil Gupta, TGT (N. Sc.) acted in a manner unbecoming of a Govt. teacher which is in violation of Rule 3 (1) (iii) of CCS (Conduct) Rules, 1964."

AND WHEREAS, Sh. Sudershan Kumar Kalra, Vice Principal, GBSSS, Shalamar Village, Delhi and Sh. Rajesh Kumar, Gr.II (DASS), GBSSS, Shalamar Village, Delhi were appointed as Inquiry Officer and Presenting Officer vide order dated 23.05.2011 respectively. The inquiry report was submitted in this matter by the Inquiry Officer on 27.12.2011 which was remitted back vide order No. 2681-2685 dated
AND WHEREAS, from the perusal of the inquiry report and the available records it was observed that the same is still fraught with the flaws some of which were pointed out earlier by the then Director (Education) and a Disagreement Note was issued on 31.12.2013 on the findings of the IO and was conveyed to the CO.

AND WHEREAS, the CO vide letter dated 18.01.2014 has submitted as under:

1. In para “5” it has been stated that the enquiry officer had not made appropriate efforts to call the second prosecution witness. I humbly submit that it is the duty of the prosecution to present their witness, if the prosecution has failed to produce the witness, it cannot be an excuse that the charges have been proved.
2. I further submit that enquiry officer was appointed by the honorable senior officers of the education department and if there is any lack of communication on his part it cannot be made an excuse to punish an innocent person.
3. The Enquiry Officer is right to conclude that the witness has nothing to state, what the witness meant, will only be understood if her earlier statement on record was provided to me and made a part of the inquiry report as per rule.
4. I humbly further state that the honesty and integrity of a teacher is never a cause of doubt. In the absence of documentary evidence, no conclusion can be made for fair justice. Why the senior officer failed to come the witness box and if one came, she too without her earlier statement which ought to have been recorded to be made a part of the enquiry report.

AND WHEREAS, I have gone through the inquiry report/records of the case and the submissions of the CO and it is observed that although second Prosecution Witness did not turn up before the IO, but the CO has never raised any claims regarding the veracity or claimed for any ambiguity against inspection report dated 28.05.2007. The deposition of the Prosecution Witness who did appear before the IO was not given due weightage by the Inquiry Officer. Her statement dated 22.09.2011 saying “there is no change in my report” has wrongly been construed to convey that she had nothing to state whereas the IO has himself noted in his Inquiry Report that “she merely stated that she had nothing to state except whatever had been stated in the inspection report dated 28.05.2007”. This clearly conveys that the prosecution witness meant
that there is no further addition to the inspection report dated 28.05.2007. It is very important to notice that the CO has never challenged the inspection report or alleged any kind of prejudice against the Inspecting Officers.

AND WHEREAS, it is further seen that the Inquiry Officer in his report has observed that only the copy of inspection report, which is the only document as per Annexure-III of the charge sheet, was produced by the PO. He has further observed as under:

"It is very unfortunate that no supporting documents are available. Even the inquiry report does not contain the classes which were sitting in the room, name of the students who were found copying, marks obtained by each student etc. In the absence of any substantial data, the inspection report is just like a sweeping document without any solid base. Such senior officers merely stated that they have gone through broadsheet and result register and had not mentioned the beneficiary who were found indulging in copying." In this context a perusal of the charge sheet issued to the CO and the inspection report dated 28.05.2007 (listed document as per Annexure-III) reveals that the inspection was conducted in the school on 25.05.2007 i.e. during the summer vacations and not during the actual conduct of the Annual Examination 2007. Therefore, there is no flaw in the fact that the inquiry report does not mention the name of classes which were sitting in the room or the name of the students who were found copying. Further, regarding the observation that in the absence of any substantial data, the inspection report is just like a sweeping document without any solid base, it is observed that the inspection report clearly mentions that some group of questions i.e. 1, 3, 19, 6, 9, 18, 13, 16, 22, 23, 24 and 25 have been attempted by all the students from which it seems that student have copied from each other and from sample papers openly which clearly signifies that the incident of mass cheating cannot be denied.

AND WHEREAS; regarding the contention/observation of the IO that "every effort was made to trace the records and I on the request of the PO wrote letters to the EO Zone-IX as well as to the then HOS and the present HOS of GBMS (presently GBSS). They showed their inability to provide the document" it is seen that the CO had not asked for any additional documents to be examined for presenting his case. Further, even the IO has no where mentioned in the order sheets as to the requirement of any additional documents and their purpose in the inquiry process. It is also observed that the Inquiry Officer vide letter dated 01.02.2013 has written to the Principal, GBSSS, E Block,
Jahangirpuri seeking "relevant records which were checked by the inspecting team lying under your custody". However, no specific document has been sought by the IO. Further, vide letter dated 23.02.2013 also the IO has merely asked Sh. Braham Singh, the previous Principal of the school, to only provide the relevant papers with reference to letter written by Sh. M. S. Yadav, the Vice principal of GBSS, E Block, Jahangirpuri. It is worth mentioning that vide the aforesaid letter dated 06.02.2013 Sh. M. S. Yadav has only requested Sh. Braham Singh to provide the acknowledgement/receipt of the handing over of record to inspection team which in no way can be considered relevant or important for coming to a conclusion regarding the inquiry proceedings. It shows that proper application of mind was not made by the IO before seeking additional documents nor was any sincere effort made to obtain them. Further, regarding the observation of the IO that the CO in his defence had demanded the record on which the inquiry was based but it was not possible to provide the same it is observed that neither any written request for the same is available on record nor any entry regarding the same has been made in the daily order sheet.

AND WHEREAS, the standard of proof required in a disciplinary case is that of preponderance of probability and not necessarily the proof beyond reasonable doubt and I am of the view that the facts discussed above prove the charges made against the CO.

NOW, THEREFORE, after considering the totality of the case and the representation of the CO dated 18.01.2014, I, Padmini Singla, Director of Education being the Disciplinary Authority, impose the penalty of reduction to three stage lower in the time scale of pay for three years upon Sh. Sunil Gupta, TGT (N. Science) with the further direction that he shall not earn any increment of pay during the aforesaid period and on expiry of such period the reduction will not have the effect of postponing the future increment of his pay.

(PADMINI SINGLA)  
DIRECTOR (EDUCATION)

Sh. Sunil Gupta, TGT (N. Science)  
SBV, R.P. Bagh, Delhi  
Through DDE (NW-A).
Copy forwarded for information and necessary action to:

1. The DDE (North West-A), Dte. of Edn, Delhi.
2. The ADE (E-III), Dte. of Education, Old Sectt., Delhi.
3. The HOS/DDO/PAO concerned through DDE (NW-A).
4. APIO (IT) with the direction to upload the order on the website.
5. Guard File.

By .. Director of Education (Vig.)