GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
DIRECTORATE OF EDUCATION: VIGILANCE BRANCH
OLD SECRETARIAT, DELHI – 110054

No.DE.54/6 (2-76)/DDE/SW-B/VIG/12/5421-5426 Dated: 28-06-13.

ORDER

Whereas, Sh. Rishipal Singh Tomar, PGT (Chemistry) was charge sheeted under Rule 14 of CCS (CCA) Rules, 1965 vide Memorandum No. F.DE-54/6(2-79)/DDE/SWB/Vig/12/1130 dated 26.09.2012 and a subsequent corrigendum with a minor correction dated 03.01.2013 on the following article of charge –

"Article-I

Sh. Rishipal Singh Tomar, PGT (Chemistry) in GBSSS No. 1, Najafgarh, Delhi has repeatedly shown in-subordination and dis-regard towards his seniors order.

Thus by doing the said acts, the official has violated the provision of Rule 3 of CCS (Conduct) Rules, 1964. Thereby rendering his liable to action under Rule 14 of CCS (CCA) Rules, 1965.”

And whereas, on denial of charges by the CO, Smt. Sunaina Sharma, Vice Principal, SKV No. 1, Sagarpur, New Delhi-110046 was appointed as IO to enquire into the matter.

And whereas, Sh. Rishipal Singh Tomar, PGT (Chem) approached Hon’ble CAT vide OA No. 4093/2012 with a grievance that charge memorandum was issued on 26.09.2012, but no further action has been taken except appointment of IO/PO vide order dated 23.10.2012. He requested the Hon’ble CAT to finalise the inquiry as early as possible as he is going to retire on superannuation on 31.07.2013. The Hon’ble CAT vide its order dated 05.12.2012 disposed of the said OA with a direction “to take a decision whether they would like to continue the inquiry proceedings or not. In case they propose to do so, they shall complete the inquiry proceedings within a maximum period of three months from the date of receipt of a copy of this order.”

And whereas, the IO conducted the inquiry and submitted the report dated 04.03.2013 concluding that the charge as per the charge sheet is proved. The inquiry report was served upon the CO vide memorandum dated 28.03.2013. A representation dated 15.04.2013 on the inquiry report was received from the CO. In his representation
the CO has stated that he had requested DDE vide letter dated 19.08.2011 to reconsider the order dated 09.08.2011. Thereafter, the DDE issued memo dated 25.08.2011 and asked explanation and he accordingly gave the explanation dated 27.08.2011 and on the basis of the explanation, the amended order was passed vide order dated 19.09.2011 and the CO complied the same on 22.09.2011. Further, with regard to the incident of not taking the register of class XII, the CO submitted that he requested to reconsider the same on 25.04.2012 and the Principal issued the memo dated 27.04.2012 vide which he forwarded the matter to higher authorities. The CO gave the reply of the same on 01.05.2012 and accordingly, after some reduction of work load, the CO took the register on 19.09.2012.

And whereas, in his representation Sh. Rishipal Singh Tomar, PGT (Chemistry) has further stated that the Disciplinary Authority has simply forwarded the unsigned inquiry report of the Inquiry Officer vide which she has proved the charges without mentioning any evidences in favor of the same which shows that the Inquiry Officer and Disciplinary Authority are predetermined that is why it did not consider the cross examination of the listed witnesses. Thus the CO be exonerated from the charges leveled against him in all fair interest of justice. He also requested for a personal hearing which was accorded by the undersigned on 23.05.2013. During the personal hearing the CO reiterated the submissions of the representation dated 15.04.2013 on the same day he also gave a written representation dated 17.05.2013/23.05.2013.

And whereas, after going through the representation dated 15.04.2013 which is of 127 pages, I find that the CO has mentioned some irrelevant and contradicting statements. In page-55 of the said presentation it is pointed out that "as per rule 15 of CCS (CCA) Rules 1965, the Disagreement Note should be fact finding evidence based but in the present memorandum there is not even an iota of evidence has been mentioned which shows that there is not an iota of evidence against the undersigned and the present Memorandum/Inquiry Report has been prepared with biased mind and thus the present memorandum is liable to be withdrawn and the undersigned be exonerated from the charge leveled against the undersigned."

And whereas, it is pertinent to recall in this regard that no Disagreement Note under Rule 15 of CCS (CCA) Rules was issued to CO as the inquiry report was accepted by the undersigned. Therefore, the above referred statement of the CO appears to be irrelevant. The CO further submitted that "as per the CCS (CCA) Rules 1965 DDE (SW-B) is the Disciplinary Authority of the undersigned and DDE (SW-
B) has issued the charge-sheet against the undersigned and further appointed Inquiry Officer and Presenting Officer. Further the Disciplinary Authority has not agreed to the inquiry report that is why he has not served the same or prepared the memorandum.

Thus the present Memorandum/Inquiry Report being issued by higher authority of Disciplinary Authority is void in legal terms and is liable to be withdrawn and the undersigned be exonerated from the charges leveled against the undersigned.”

And whereas, vide his representation dated 17.05.2013/23.05.2013, the CO stated that he is a Group-B employee and the Disciplinary Authority as per CCS (CCA) Rules, 1965 is Chief Secretary but in the present case the charge-sheet is issued by the DDE which is illegal. Both the statements of the CO are contradictory.

And whereas, it is worth mentioning that DDE (SW-B) is the Disciplinary Authority in case of the CO to impose any of the penalties in clause (i) to (iv) to Rule 11 i.e. minor penalties. Further, rule 13(2) of CCS (CCA) Rules, 1965 provides that “a Disciplinary Authority competent under those rules to impose any of the penalties specified in clauses (i) to (iv) of Rule 11 may institute disciplinary proceedings against any Government Servant for the imposition of any penalties specified in clause (v) to (ix) of Rule 11 notwithstanding that such Disciplinary Authority is not competent under these rules to impose any of the latter penalties.”

And whereas, in view of the these, DDE (SW-B) has instituted disciplinary proceeding u/r 14 of CCS (CCA) Rules against the CO and the inquiry report was submitted to the undersigned for further action as per rule 15 of CCS (CCA) Rules. The Chief Secretary is not the Disciplinary Authority in respect of the CO.

And whereas, so far as the judgment of Supreme Court in the matter of Transport Commissioner Vs. Radha K. Moorthy (1995) is concerned, the charge against the CO is not at all vague. It is not proper on the part of CO to quote only article of charge (Annexure-I) and interpret the said judgment as per his convenience. It is very significant to note that the charge memorandum consists of the article of charge, the statement of the imputations (Annexure-II) of misconduct or misbehaviors and a list of documents and witnesses by which article of charge is proposed to be sustained. The statement of imputation issued with the charge memo dated 26.09.2012 provides a full and precise recitation of the specific and relevant acts of omission on the part of the CO. Therefore, the charge is in no way vague.
And whereas, with regard to the forwarding of unsigned inquiry report of the Inquiry Officer, it is observed that the IO submitted the inquiry report along with the signed forwarding letter dated 04.03.2013 to DDE (SW-B). The same was served upon the CO. The IO vide her letter dated 07.06.2013 has mentioned that she inadvertently submitted unsigned inquiry report and has enclosed another copy of the same inquiry report duly signed. I have carefully perused both the inquiry reports and did not find any change in the whole report. Moreover, this does not absolve the Charged Official of the misconduct.

And whereas, from the available record, it is observed that Sh. R.P. S. Tomar, PGT (Chem.) GBSSS No. 1, Najafgarh along with some other teachers were deputed vide order dated 09.08.2011 (Listed document No. 1) to perform duty for three days in the nearby schools, where new streams were introduced. It was an internal arrangement of District SW-B in the absence of the subject teacher in those schools. Sh. Tomar, instead of joining the assigned school gave a representation dated 19.08.2011 (Listed document No. 2) stating therein that he is unable to perform this duty without mentioning any specific reason. A memorandum dated 25.08.2011 (Listed document No. 3) was issued by DDE (SW-B) with directions to Join immediately. In response to this memorandum, Sh. Tomar vide his representation dated 27.08.2011 (Listed document No. 4) stated that he is unable to perform the duty in both the schools. Further, for the sake of reason, he submitted that it is subject of Chemistry and not Political Science or History. He also submitted that it is his past experience that those Principals and teachers are involved in corruption are closely related to the officers of the district. The CO did not comply the order dated 09.08.2011 till 19.09.2011, which is a very long delay and hampered the study of the students of the school assigned. Such excuses for non-compliance of order are irrelevant and not acceptable.

And whereas, a school order no. 18 dated 17.04.2012 was issued to Sh. R. P. S. Tomar, PGT (Chem.) by the Principal, GBSSS No. 1, Najafgarh for taking over the charge as class teacher of class XII A (Science stream section). But he refused to sign on the order book which was confirmed by the Prosecution Witness No. 2 Smt. Santosh, Water Woman, during the inquiry proceedings. As the CO did not take the charge as class teacher of XII A, a memorandum dated 20.04.2012 (Listed document No. 6) was issued to him by the HoS. In his reply dated 23.04.2012 (Listed document No. 7), he submitted that he is lab in-charge and also alleged against the Principal for biased attitude. Another memorandum dated 27.04.2012 (Listed document No. 8) was issued to him clarifying that the Lab Assistant is the in-charge of laboratory and he was directed again to take charge of the
class XII A. Instead of taking the charge as class teacher, vide his representation dated 01.05.2012 (Listed document No. 9), he used un-parliamentary language against his HoS.

And whereas, a preliminary inquiry was conducted by Smt. Omeshwara Singh, Principal, SKV No. 1, Palam Enclave (Prosecution Witness No. 3) and Sh. Vijay Singh, Office Superintendent (Prosecution Witness No. 4). In their findings dated 07.08.2012 (Listed document No. 10) they observed that Sh. R. P. S. Tomar is in habit of making unwanted complaints against HoS, teachers and other staff of the school and frequently violated the orders of HoS and other higher authorities. In their depositions during the inquiry proceedings Smt. Omeshwara Singh and Sh. Vijay Singh confirmed the same.

And whereas, it is also evident from the various representation of the CO that he used inappropriate and indecent language against his seniors. It is very significant to note that the Deputy Directors of the districts have the duty to ensure the proper functioning of all schools under their jurisdiction on academic front. Sometimes in absence of sufficient teachers, for managing the uninterrupted study of the students on emergent basis, they have to make temporary arrangements by shifting teachers of one nearby school to the other by issuing administrative orders to this effect. The teachers/staff under them are duty bound to follow those orders for the betterment of the study of the students. The CO is a teacher and undoubtedly a teacher in a school is expected to show regard and respect towards Principal who is the head of the school and to other higher officers and to comply their orders. Obviously, the acts of the CO are not at all conducive to the congenial atmosphere of a school. It is very essential in an organization that the staff should perform the duty as they are expected to. The interest of the students is of paramount importance and is over and above the whims and fancies of a teacher.

And whereas, the CO in his various representations including one dated 19.08.2011 has raised issues like (i) Welfare of the students are mere completion of formalities. (ii) Most of Principals/Vice-Principals/Teachers/Officials are not aware of their duties and responsibilities. (iii) Involvement of official in different types of corruption etc. Such suggestions are welcome and such complaints are investigated as and when received and necessary action is taken. But, all these do not provide either implied or express right to the CO to show disrespect and disregard towards his seniors and disobey their orders. The inquiry report appears to be cogent.
Now, therefore, after going through the inquiry report dated 04.03.2013 including the depositions and the cross-examinations of witnesses, representation dated 15.04.2013 & 23.05.2013 of the CO, I Amit Singla, Director (Education) being the Disciplinary Authority conclude that Sh. Rishipal Singh Tomar, PGT (Chemistry) is guilty of the charges leveled against him vide memorandum No. F.DE-54/6(2-79)/DDE/SWB/Vig/12/1130 dated 26.09.2012 and corrigendum dated 03.01.2013. I, therefore, impose the penalty of reduction to two lower stages in time scale of pay till his retirement on superannuation with immediate effect with further direction that such reduction will adversely affect his pension.

(AMIT SINGLA)
DIRECTOR (EDUCATION)

Sh. Rishipal Singh Tomar,
PGT (Chemistry), GBSSS No.1,
Najafgarh, New Delhi.
Through DDE (South West-B)

No.DE.54/6 (2-76)/DDE/SW-B/VIG/12/54121-54126 Dated: 28/1/2013.

Copy for information and necessary action to:-
1. DDE (South West-B), Directorate of Education.
2. ADE (E-II), Directorate of Education
3. HOS/DDO Concern.
5. OS (IT) with the request to upload the same on the website.

(Devender)
Asstt. Director of Education (Vig.)