ORDER

Whereas, Sh. Vinod Kumar Pandey, TGT (N. Science) posted in SBV, Paharganj, New Delhi was charge sheeted under rule 14 of CCS (CCA) Rules, 1965 vide memorandum No. DE/51/DDE/C/ND/Vig/13/612 dated 26.02.2013 on the following articles of charge:

Article-I

Sh. Vinod Kumar Pandey, while working as TGT (N. Science) in SBV Pahar Ganj, w.e.f. 28.11.2007 was observed by Inspection Team for not taking the regular classes assigned to him for the last two three years. The unlawful act committed by Sh. Vinod Kumar Pandey, SBV Paharganj is clear cut violation of CCS (Conduct) Rules, 1964.

Article-II

Sh. Vinod Kumar Pandey, while working as TGT (N. Science) in SBV Pahar Ganj, w.e.f. 28.11.2007 was observed by Inspection Team on 23.08.2012 to have taken Compensatory Leave on number of occasions and also was marked “On Duty” (as per list attached at 12/C). The unlawful act committed by Sh. Vinod Kumar Pandey, SBV Paharganj is clear cut violation of CCS (Conduct) Rules 1964.

Article-III

Sh. Vinod Kumar Pandey, while working as TGT (N. Science) in SBV Pahar Ganj, w.e.f. 28.11.2007 was observed by Inspection Team for not taking weekly test regularly and also not checking the assignments/homework. The unlawful act committed by Sh. Vinod Kumar Pandey, SBV Paharganj is clear cut violation of CCS (Conduct) Rules, 1964.

And whereas, on denial of charge Ms. Geeta Padam Negi, Vice Principal was appointed as Inquiry Officer and Smt. Vikas, Gr. III (DASS)/UDC was appointed as Presenting Officer vide orders dated 26.02.2013. Subsequently Mrs. Chander Bala, Gr.II(DASS)/Head Clerk was appointed as Presenting Officer vide order dated 10.05.2013. The Inquiry Officer conducted the inquiry and submitted the inquiry report dated 08.08.2013 concluding all the articles of charge as not proved.
And whereas, from the perusal of the inquiry report and the available records it was observed that the IO had failed to evaluate the material evidences properly and a disagreement note was issued regarding the findings of the IO on the article-II of the charge memorandum dated 26.10.2013 and was conveyed to the CO vide memo No.DE.7/843/C/ND/TGT/Vig/2012/6469-6470 dated 07.11.2013.

And whereas, the CO vide letter dated 18.11.2013 has submitted as under:

"1. Applying the principal of preponderance of probability in this case is not squarely applicable because in such cases the DA may confirm this fact from the concerned principal Mr. R. P. S. Gautam under whose supervision and direct control, the CO had performed his duties on said dates. The principle of preponderance of probability can only make applicable only such cases where it is not reasonably practicable to substantiate the charge cent percent.

2. The only prosecution witness has categorically deposed that the CO has actually performed the duty on said dates for which he was allowed compensatory leaves on different dates. I had availed leaves with the permission/sanction of the competent leave sanctioning authority as per CCS (Leave) Rules, 1972 and therefore there appears no valid reason to object. I have also submitted the documentary evidence in support of this facts which was taken on record by IO and they cannot be overlooked because there are vital evidence in my defence."

And whereas, I have gone through the records of the case and the submissions of the CO and it is observed that the claim of the CO that the principal of preponderance of probability cannot made applicable in this case is not sustainable. When an official has performed duties during holidays/vacations and is claiming compensatory of in lieu of the said days, he/she has to produced the relevant orders whereby he/she was directed to perform the said duties. No such order has been produced by the CO to support his claim. Further, as already brought out in the Disagreement Note dated 07.11.2013 wherein the rule position for taking compensatory leave/off was discussed, as per GOI OM dated 27.11.1965 compensatory leave/off can be taken only within one month of its becoming due. Further, as per provision of GOI OM dated 20.03.1967 it has been stated that while as a rule the compensatory leave should be granted within one month of its becoming due, this condition may be relaxed in exceptional circumstances where an officer of the rank of Joint Secretary or above (in the case of Secretariat Staff) and Head of the Department (in the case of staff of Attached/Subordinate or other
office) is satisfied that the grant of compensatory leave to all the staff within a month would cause serious dislocation of current work provided that not more than two days compensatory leave is allowed to be availed of at a time. In the present case the compensatory leave has not been availed within one month nor has the approval of the HoD been taken to avail the same beyond the prescribed period. It is also seen that no application was produced by the school showing that he had applied for compensatory leave/off or whether the same had been properly sanctioned. Though the Head of Office is primarily at fault for allowing the CO to sign on the register or calling him for duty without issuing the proper order as well as for sanctioning the compensatory offs, the CO cannot be totally absolved of his faults more so as he failed to produce any application to prove that he had applied for compensatory leave/off or whether the same had been properly sanctioned.

Now, therefore, after considering the totality of the case and the representation of the CO dated 18.11.2013, I, Amit Singla, Director of Education being the Disciplinary Authority, impose the penalty of 'Censure' upon Sh. Vinod Kumar Pandey, TGT (N. Science). Further the period of absence sanctioned as compensatory off will be treated as 'dies non' without break in service.

(AMIT SINGLA)  
DIRECTOR (EDUCATION)

Sh. Vinod Kumar Pandey, TGT (N. Science)  
SBV, Pahar Ganj, New Delhi  
Through DDE (C&ND).

No.DE.7/843/C/ND/TGT/Vig/2012/6939  
Dated : 24.1.2013

Copy forwarded for information and necessary action to:-

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

Asstt. Director of Education (Vig.)