

**In the Court of Commissioner for Persons with Disabilities
National Capital Territory of Delhi**

25- D, Mata Sundari Road, Near Guru Nanak Eye Centre, New Delhi-2
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[Vested with powers of Civil Court under the Persons with Disabilities
(Equal Opportunities, Protection of Rights and Full Participation) Act, 1995]

Case No. 4/1258/2016-Wel./CDI/86-87

Dated: 27/4/17

In the matter of:

Sh. Bigan Prasad,
16 D, Pkt- D II, Kondli Gharoli,
Mayur Vihar, Phase-III,
New Delhi-110096.

..... Complainant

Versus

The Director,
Directorate of Education,
GNCT of Delhi,
Old Sectt.,
Delhi-110054

..... Respondent

Present: Sh. Bigan Prasad, Complainant

Sh. Sanjay Chaturvedi, Dy. Director (Education) Zone-II East on
behalf of Respondent

Date of hearing: 13.04.2017

ORDER

The above named complainant, a person with blindness submitted a complaint which was received on 27.04.2016 regarding his harassment by Sh. Ganesh Prasad, Principal of the Govt. Boys Senior Secondary School, New Kondli, Delhi. He submitted that he was working as T.G.T.(Social Science) in Govt. Boys Senior Secondary School, New Kondli till 09.12.2014. He alleged that Sh. Ganesh Prasad, Principal of the School had given average grading to him in his Annual Confidential Report despite 95-100 per cent result. He also alleged that Sh. Bharat Singh, PGT (Geography) and Sh. Ram Prakash Pathak, TGT(Sanskrit) used to insult him by calling him names. He was transferred based on fake documents. He was treated *dies non* despite being present in the school and his salary of one day was deducted. He further alleged that Staff Secretary and many other teachers of the school used to be absent and the Principal used to send the attendance register to their houses to mark their attendance. He represented to the senior officers but there was no action. Instead, he was transferred from the school.

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2 The complaint was taken up with the respondent vide communication dated 17.05.2016. The Head of Govt. Boys Senior Secondary School, New Kondli vide his letter dated 02.01.2017 addressed to Dy. Director(Z-II), Shakarpur with copy to this Court inter alia submitted that Sh. Bigan Prasad was treated as dies non on 27.10.2014 and his salary was deducted on the basis of no work no pay. There was no post of Staff Secretary as claimed by the complainant and the then Principal Sh. Ganesh Prasad denied having abused or insulted him. Sh. Bharat Singh, PGT (Geography) and Sh. Ram Prakash Pathak, TGT(Sanskrit) also denied having insulted the complainant vide their written statements.

3. This Court forwarded the letter dated 02.01.2017 to the complainant for his comments vide letter dated 24.01.2017. However, the complainant did not submit any comments.

4. In response to Notice of hearing dated 15.12.2016, Dy. Director(Education), District East vide his letter 10.02.2017 submitted as under:-

"Point No. 1:

The official, Mr. Bigan Prasad was earlier posted in Govt. Boys Senior Secondary School, New Kondli, Delhi. The then Reporting Officer, the Principal of the school had given him the Average Grading in the Annual Confidential Report (ACR) of the work & conduct of the teacher for the Year 2013-14. The then Reviewing Officer, the Deputy Director of Education (Zone-II), Shakarpur, Delhi upgraded the Grading as Good in the ACR of the official. Copy of the same is enclosed as **Annexure-I**.

As per the letter issued by the MHA vide No. 4-14017/2/76 dated 15.07.1976 where the Reviewing Officer disagrees and gives his own remarks, such remarks would be treated as final and only those would be taken into account by the DPC etc. Copy of the same is enclosed as **Annexure-II**.

Therefore, the Grading in the Annual Confidential Report of Mr. Bigan Prasad is Good and **not** Average. It is pertinent to mention here that the official has already been promoted to the post of PGT (Political Science) and is posted at SBV, Dallupura, Delhi.

Point No. 2:

Mr. Bigan Prasad has leveled charges of misbehavior against Mr. Bharat Singh, PGT (Geography) and Mr. Ram Prakash Pathak, TGT (Sanskrit). The present Head of the School inquired into the matter and found that they never insulted and misbehaved with Mr. Bigan Prasad. Both the officials have denied such allegations. The statements of Mr. Bharat Singh, PGT (Geography) and Mr. Ram Prakash Pathak, TGT (Sanskrit) are enclosed herewith as **Annexure-III**.

Point No. 3:

As per the Employee's Details, the official Mr. Bigan Prasad is residing at 16-D, Pocket D 2 Kondli Gharauli, Mayur Vihar-III, Delhi-96 and the official was transferred to GBSS, Kondli Gharauli which is nearer to his residence and more convenient & logical,

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keeping in view the visual impairment of the official. It is also humbly submitted that the transfer of the official was not done on false documents but was an administrative decision keeping in view the convenience of the official.

Point No. 4:

The HOS during the inspection of classes found that Mr. Bigan Prasad did not take any classes on 27.10.2014. A Memorandum was issued to the official vide No. GBSSS/NK/14/56 dated 03.11.2014. The copy of the Memo is enclosed as **Annexure-IV**.

The official submitted his reply but was not found satisfactory by the HOS and another Memo was issued to the official vide No. GBSSS/NK/14/573 dated 12.11.2014. The copy of the Memo is enclosed as **Annexure-V**.

As per the Sub Rule (6) of the Rule 11 of the CCS (Classification Control & Appeal) 1965, "**absence of officials from duty without proper permission or when on duty in office, they have left the office without proper permission or while in the office, they refused to perform the duties assigned to them is subversive of discipline. In cases of such absence from work, the Leave Sanctioning Authority may order that the days on which work is not performed be treated as Dies Non i.e. they will neither count as service nor be construed as break in service. This will be without prejudice to any other action that the Competent Authorities might take against the persons resorting to such practices**".

As per point no.(iii) of sub rule (7) of the Rule 11 of the CCS (CCA) Rules 1965, **the day can be marked as Dies Non by the Leave Sanctioning Authority when the official remains in office, but refuses to perform duty assigned to him.**" The copy of the Rule is enclosed as **Annexure-VI**.

It is pertinent to mention here that the Higher Authorities were also apprised of the matter and the Competent Authority i.e. Director (Education) accorded the approval that the Leave Sanctioning Authority may order for Dies Non. As the official did not perform his duty on 27.10.2014 he was treated Dies Non for that day.

Accordingly the salary of the official for one day i.e. 27.10.2014 was deducted from the salary of November 2014 for not performing his duties.

Point No.5:

The then HOS had informed that there was no post of Staff Secretary in the school and he never insulted or misbehaved with Mr. Bigan Prasad.

It is submitted that no injustice was done to Sh. Bigan Prasad, now PGT (Political Science). Had any such incident taken place in the school, the Higher Authorities would have taken strict action against the defaulters. It is assured that interest and welfare of the people with special needs is always taken care of by the authorities concerned and zero tolerance is maintained while dealing with such complaints."

5. During the hearing on 20.03.2017, Sh. Sanjay Chaturvedi, Dy. Director(Education), Zone -II reiterated the contents of the letter dated 10.02.2017 and 18.03.2017 and added that the decision of the concerned Principal to treat the complainant as *dies non* on 27.01.2014 was later referred to Director, Education and Vigilance. No infirmity was found in the decision of the Principal. He was the leave sanctioning authority for the complainant and hence was competent to order the days

on which work was not performed to be treated as *dies-non*. He also produced the relevant file including the note sheets.

6. The copies of the letter dated 10.02.2017 as also the copy of letter dated 18.03.2017 which reiterated the contents of the letter dated 10.02.2017 were handed over to the complainant as the same had not been supplied to him by the respondent:

7. The complainant during the hearing submitted that Principal Sh. Ganesh Prasad was biased against him. The Principal himself had directed to show the answer sheets of the students on 27.10.2014, which was the 1st working day after Dusshera holidays & half yearly examination break. He complied with the directions of the Principal and showed the answer sheets of the students of the classes he used to teach. On that day, he also submitted the award list to the Examination Deptt. The complainant submitted a list of students of class 6th G, E & & 7th E having signatures and statements that Sh. Bigan Prasad taught them social studies on 27/10/2014 and he also explained to them. To this, the representative of the respondent stated that the said papers/documents were not available in the relevant file. A copy each of the three lists was handed over to the representative of the respondent during the hearing. As per the complainant, he had submitted all those papers at the time of submission of his replies. He suspected that those papers may have been removed from the record by vested interests.

8. In the light of the submissions of the parties, more particularly the additional documents submitted by the complainant, the respondent was advised to have the matter investigated by an officer of appropriate level and submit the report within 20 days. Both the parties were directed to come with complete record on the next date of hearing so that the case could be disposed off.

7. On the next date of hearing on 13.04.2017, the representative of the respondent submitted a copy of letter no. DE/47(4)(3)/DDE(E)/A/17/2923 Dated 12.04.2017. The said letter inter-alia states that in compliance with the direction of this court vide record of proceedings dated 23.03.2017, an enquiry committee was constituted under the chairmanship of Dr. Sanjay Chaturvedi, Dy Director of Education (Zone-II), Shakarpur, Delhi and Smt. Anshu Bhardwaj, HOS, Govt. Girls Secondary

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School, Mayur Vihar -III, Delhi & Smt. Geeta Arora, Vice-Principal, Sarvidaya Kanya Vidhalaya, Kalayanpuri, Delhi as its member. The Committee also obtained the written statements of the students of the aforesaid classes. As per the statement of 06 students (then students of class VII-E & now of class X), Mr. Bigan Prasad taught Social Studies in the Acadmic Year 2014 and showed the Answer-sheets of Summative Assessment-1. But 11 students of the then class VI-E (now of class IX) have stated that Mr. Bigan Prasad used to teach Social Science but he did not show/display any answer-sheet. Instead of him, Mr. Mohan Singh, TGT showed the answer-sheets to them. The letter further states that 13 students of then class VI-G (now students of class IX) have submitted that their class teacher showed / displayed the answer sheet in their class. They have also made some negative remarks about Mr. Bigan Prasad. Thus, out of 30 students, only 06 students (20%only) admitted that the answer sheets were shown but majority of the students (80%) denied that the answer-sheets were displayed by Mr. Bigan Prasad.

10. Based on the statements and Inquiry Report, the respondent has concluded that Mr. Bigan Prasad did not attend the class on 27.10.2014 and was accordingly treated on Dies Non by the Leave Sanctioning Authority without break in service for failing to perform the noble duty of a teacher and for failing to look after the interest & welfare of the students of the school.

11. The complainant submitted that on 27.10.2014 he was in the school and a large number of students have stated that he was present in the classes and showed the answer sheets to the students. Therefore, treating him dies-non is not justified.

12. The complainant was asked whether he ever submitted the copies of the three sheets containing the list of students of class 6th G & E and 7th E with their signature dated 27.10.2014 which he produced on the last date of hearing on 20.03.2017. He could not produce any proof of having submitted the said papers to the respondent or to this court ever since he submitted the complaint in April, 2016. A perusal of the report submitted by the respondent on 13.04.2017 and the statements dated 10.04.2017 of the student who were in class 7th E, 6th G & E in 2014 shows that while 6 students of class 7th E have stated that the complainant showed them the

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answer sheets and taught them well through out the year, 24 students of class 6th G & E have stated that the complainant himself did not show the answer sheets to them. So the position as emerges is that the complainant did attend the school on 27.10.2014, but as per the documents made available, while he showed the answer sheets to students of one class, he himself does not seem to have shown the answer sheets to the students of two classes.

13. In the absence of any supporting documents against the stated position and the reasonable efforts having been made to ascertain the facts as above, the complainant has not been able to support his statement that he was present in all these classes on 27.10.2014 and that action under Sub-Rule (6) of Rule 11 of the CCS(CCA) Rules 1965 could not have been taken. In the circumstances, Director of Education may take a view on the report of the committee and consider whether in the light of the factual position as has emerged, treating 27.10.2014 as dies-non can be avoided by deducting leave from the complainant's account. A decision may be taken within 15 days from the date of receipt of this order and the complainant be informed about the decision.

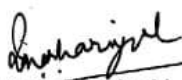
14. As regards allegation that Sh. Bharat Singh and Sh. Ram Prakash Pathak insulted him and called him names is concerned, both of them have denied the allegation. They have also questioned the veracity of the allegation made after two years of his transfer in the absence of any proof or evidence, which indeed is difficult to produce in such cases. Be that as it may, such incidents should be brought to the notice of the concerned authorities without loss of time to enable them to take effective action. The authorities should include a module on issues concerning persons with disabilities in all the foundation/induction/refresher training programmes of all the teachers and employees besides organising workshops from time to time to update their knowledge and for sensitising the employees.

2017.



The matter is disposed of accordingly.

Given under my hand and the seal of the Court this 26th April day of


(T.D. Dhariyal)

State Commissioner for Persons with Disabilities
Court of Commissioner (Disabilities)