

RTM Nagpur University, Nagpur. He also happened to be Ph.D. Supervisor. He is also conferred with Honorary membership by few confederations.

3. It is alleged that since last few months prior to filing of this Grievance Petition on 15-11-2017, the college authority developed some grudge against the applicant, which resulted in issuance of series of show cause notices to him seeking explanation. He has given details of such show cause notices/memos issued to him on various allegations during the period from 29-04-2017 to 08-11-2017 out of which is that he is involved in anti-college activities. Ultimately on the basis of show cause notice dated 08.11.2017, and considering his reply dated 14.10-2017 to it, a disciplinary proceeding/departmental action is initiated against the applicant alleging misconduct, which resulted in filing of a charge-sheet/ memorandum dt. 30-11-2017 under the provisions of Maharashtra Civil Services (Discipline and Appeal) Rules 2009, which is wrongly adopted according to him. Subsequently fresh charge sheet on the same allegations is filed against him on 4-5-2018 under the provisions of Ordinance No.24 issued by the University. In reply to it, the Applicant alleged number of irregularities in conduct of the enquiry, including violation of the principles of natural justice. On filing of the previous charge-sheet, the Applicant was put under suspension during the period from 30-11-2017 to 30-05-2018 i.e for six months and during this period 50% subsistence allowance only was paid to him, leaving the balance 50% thereof, which remained unpaid in spite of his representations. It is alleged that the action on the part of the college authorities in initiating a disciplinary proceeding against him is mala-fide and it resulted in causing mental torture and harassment to him.

4. On notice, the Non-applicants by a common reply dt. 12-6-2018 resisted the Grievance Petition by denying all the adverse allegations, averments, contentions and grounds raised therein. It is stated that since the applicant was found to be involved in anti-college activities and accepting Honorary membership of few confederations without permission of the management, a regular departmental proceeding is initiated against him as per rules. The enquiry officer is appointed and full opportunity is given to the applicant to defend him. The said enquiry is still pending. It is specifically denied that the Non-applicants ever intended to harass the applicant by filing a charge-sheet against him.

5. It is not disputed that the balance 50% subsistence allowance for the period of suspension is yet to be paid to the applicant. However, this was on account of pending enquiry against him. After completion of six months of suspension, full salary is, however, paid to the applicant. The Grievance Petition is, therefore, liable to be rejected, being without any subsistence.

6. On 22-8-2019 the Grievances Committee heard the submissions made by the applicant and the reply arguments of Shri N.Y. Khandait, Principal of college on merit.

7. The Grievances Committee had carefully gone through the entire case record and also held deliberations on the issue involved and the legal aspect of the case. This order is being issued for an on behalf of the Grievances Committee by the undersigned as its Chairman.

8. On the basis of the pleadings of the parties and the submissions advanced, the following points arise for consideration

of the Grievances Committee, with findings thereon as under for the reasons that follow:-

Points for consideration

- 1) Whether various charges levelled against the Applicant amounts to causing harassment to him by the Management especially when according to Applicant he rendered unblemished service earlier? Partly Yes
- 2) Whether filing of the charge sheet/ memorandum and thereby initiating disciplinary proceeding/ departmental action against the applicant amounts to causing torture and harassment to him? No
- 3) Whether the applicant is entitled to get balance 50% of the subsistence allowance for the period of suspension from 30-11-2017 to 31-5-2018? Yes
- 4) What order? - As per operative para

REASONS

9. **As to Point No. 1:-**

The record shows that before filing of the charge-sheet against the Applicant he approached this Grievances Committee making allegations against the Management for issuance of number of Memos/Show Cause Notices to him. Subsequently the charge-sheet/Memorandum is filed raising as many as 10 different charges which are referred in details while discussing Point No. 2 herein below, which are stated by way of additional pleading.

10. So far as oral grievance made regarding deliberately ignoring the Applicant for the Local Management Committee meetings, since admittedly one month prior to filing of this Grievance Petition, he is elected as its member, is not incorporated

in additional pleading. However, till this day LMC meetings must have been ^{regularly} ~~regularly~~ held. This being so this oral grievance of the Applicant seems to be genuine and the Management prima facie seems to be at fault in not calling the Applicant to attend the meetings of the Local Management Committee, so long as he continues to be its member simply because he is facing a disciplinary action. It is expected that the Management will rectify its mistake and take appropriate steps in future.

11. If we consider nature of the charges levelled against applicant, few charges are prima facie baseless such as misusing the provisions of Right to Information Act, approaching Grievances Committee without any specific grievance. It is obvious that every individual has a statutory right to approach and seek information under Right to Information Act, 2005 from the concerned department/ authority. Seeking information on number of occasions cannot be a reason to deny it unless similar information is sought. Similarly the Management cannot say that the employee has approached Grievances Committee without specific grievance, since this will be for the Grievances Committee to consider it after perusing record and hearing both the Parties. In case Principal/Management declines to forward the grievance to the Grievances Committee, even then as per rules the employee has a right to forward the Grievance Application by registered post, disclosing this fact in the prescribed format, which is rightly done by the applicant in this case.

12. It is thus obvious that few grievances raised by the Applicant are well founded. However, so far as other charges are concerned, since full-fledged departmental enquiry is now initiated against the Applicant, the Enquiry Officer will consider the same by following the prescribed rules and at this stage it will not be

appropriate on the part of this Grievances Committee to record specific finding on those charges, except with the aforesaid observations in respect of few charges. Prima Facie it appears that Management indulged in raising few charges against the Applicant which are unwarranted and are not well founded and to that much extent it can be said that the Management was incorrect in adopting the said tactics which must have resulted in causing mental torture/ harassment to Applicant. Point No. 1 is, therefore, answered as Partly Yes.

13.

As to Point No. 2:

So far as this grievance of the Applicant is concerned, it is undisputed that he is facing a disciplinary proceeding/departmental action initiated by the Management alleging misconduct vide charge-sheet dated 30.11.2017, raising as many as 10 articles of charges against him. Its sum and substance read as under:-

- i) Deliberately leaking the privileged details of interaction session between IQAC Members and the NAAC Peer Team.
- ii) Accepting without Management's prior permission the membership and joined office of the Vice President of Adarsha Vidya Mandir Society thereby creating conflicts of interest.
- iii) Refusing to resign from the above membership and using derogatory language against the Principal and Management of G.S. College of Commerce and Economics.
- iv) While functioning as a teacher in G.S. College of Commerce and Economics, Nagpur has committed grave misconduct by using very derogatory language against the Principal and Chairman of the Institution in presence of the staff of

Kaushalyadevi Maheshwari College, Nagpur which is managed by Adarsha Vidya Mandir.

- v) Becoming a member of Confederation of All India Teachers which is a national body, without permission of the college.
- vi) Misusing the provisions of Right to Information Act, 2005 as a tool for harassing and threatening the college authorities.
- vii) Deliberately maligning the image of college/principal/management in the eyes of the higher authorities of University.
- viii) Making false submission before the University's Grievances Committee that the Principal had refused to accept and forward his grievance application to the said Committee.
- ix) Approaching University's Grievances Committee without any specific grievance.
- x) Has committed a grave misconduct by getting himself nominated or accepted nominations on the Body of various other Universities other than the parent Rashtrasant Tukadoji Maharaj Nagpur University, without the permission of the college authorities.

14. From the plain reading, it is obvious that few serious charges are levelled against the Applicant, which are under investigation. It is stated that the prescribed procedure is being followed for conducting the aforesaid enquiry. On interrogation with the Applicant he stated that the enquiry is now pending for examination of his defense witnesses. As such it is yet to reach its logical end after following prescribed procedure. All the grievances raised by the Applicant in respect of initiation of departmental enquiry, appointment of Enquiry Officer, reasonable and fair

MR

opportunity not given to him can be considered at the first instance by the Enquiry Officer while submitting his final report to the Management. Here it may be made clear that in case applicant has any grievance about the appointment of, conduct and procedure followed by the Enquiry Officer, he has a right to approach the Management first, which is the Disciplinary Authority for its redressal. At this stage when the enquiry is still pending, it will not be appropriate or competent for this Grievances Committee to interfere and to issue any direction in this behalf by considering it. The Applicant will have right to agitate his grievance in this behalf, in the event he is found guilty of few/all the charges levelled against him before this Grievances Committee (in the event minor punishment is imposed) or before the Hon'ble University and College Tribunal (in the event major punishment of dismissal, termination, removal from service or reversion to lower post is imposed on him). As such at this stage, it will not only be premature but also incompetent to consider the grievance in this petition.

15. The Grievances Committee, however, does not find any force in the contention of the Applicant that simply on account of issuance of series of show cause notices or filing of a disciplinary proceedings by filing a memorandum/charge-sheet against him on alleged misconduct, the college administration or the management had any intention to harass or torture the applicant or that it resulted in causing mental torture or harassment to him. At this stage since inquiry is still pending no further comments can be made on the issue. The Grievances Committee is aware of the fact that issuance of show cause notice seeking explanation and initiation of a disciplinary proceedings against the employee results in causing some inconvenience and it disturbs him. Further in the

event the enquiry is delayed, it may affect his promotional avenues also thereby affecting his career. However, it cannot be said that unless there is a specific finding by the Enquiry Officer on the basis of material collected during enquiry, to the effect that issuance of show cause notices for seeking explanation and initiation of a disciplinary proceeding against the Applicant are in fact unwarranted or baseless, in that event only we can say that it has caused mental torture and harassment to him. Till that stage comes, it will not be appropriate on the part of the Grievances Committee to hold that simply issuance of show cause notices seeking explanation and initiation of a disciplinary proceeding against the Applicant, amounts to or resulted in causing mental torture and harassment to him. In view of above, the Grievances Committee answers Point No. 2 in the negative.

As to Point No. 3:

16. So far as this aspect of the case is concerned, during the course of hearing it was transpired that the Applicant was put under suspension from the date of institution of a disciplinary proceedings against him on 30.11.2017, which continued till 31.05.2018 that is for a period of six months. The enquiry continued further, although there is nothing on record to show that the suspension is reviewed. During this period it is not disputed that the Applicant was paid 50% of salary as subsistence allowance and the remaining 50% is still unpaid. There is nothing on record to show that after expiry of six months period the suspension is further extended by the management or inquiry is completed and its report submitted to Management for consideration. This follows that the suspension lasts for a period of six months only and thereafter in absence of further extension, it is deemed to have been revoked. In view of above the enquiry

may take some more time to conclude and it is also stated that after expiry of six months period the Applicant is getting full salary. This is additional ground to hold that the suspension is deemed to have been revoked.

17. Thus the grievance is for non-payment of balance 50% of salary by way of subsistence allowance for the period from 30.11.2017 to ~~31~~05.2018. It is submitted on behalf of the Non-applicants that since enquiry on serious charges is pending consideration and is yet to reach its logical end, the payment of balance 50% of subsistence allowance be withheld, which will be subject to final outcome of the enquiry.

18. There is some substance in this submission. However, considering the fact that the Applicant is getting full salary from 01.05.2018 and the enquiry is still pending since last about two years, it is obvious that it will not be just and proper and in the fitness of the case to withhold payment of balance 50% of the subsistence allowance for the period from 30.11.2017 to ~~31~~05.2018. It can conveniently be paid to the Applicant, which will however, be subject to final outcome of the enquiry.

19. This view finds support from the decision of Hon'ble Supreme Court in the matter of departmental enquiry, in which it is held that even for serious charges of misconduct, the period of suspension shall not exceed nine months and on expiry of the said period, in the event the suspension is not reviewed, it will be deemed to have been revoked and the delinquent employee is deemed to be in service for getting full salary till conclusion of enquiry.

20. From the above discussion, there is no point in withholding payment of the balance 50% of the subsistence

allowance to the applicant for the period of suspension. Point No. 3 is, therefore, answered in the affirmative.

21. At the close, on interrogation with the applicant he stated that although from 01.06.2018 he is getting 100% salary by way of subsistence allowance and since suspension after six months is not reviewed nor the enquiry is completed within said period, there is no point in not permitting him to perform his solemn duty of teaching. This is so because he is getting 100% salary by way of subsistence allowance, without rendering any service to the college. As such appropriate directions to the Non-applicants in this behalf need to be issued, in the interest of the students and the Management. The following operative order is, therefore, passed:

22. (a) The grievance application is partly allowed. It is declared that the Management was at fault in raising few charges against the applicant as discussed above, which are prima facie baseless and thereby indulged in causing harassment to him.

(b) The Non-applicants are directed to release balance 50% of salary by way of subsistence allowance to the Applicant for the period of suspension from 30.11.2017 to 31-05.2018.

(c) The arrears be calculated and it be credited to the Applicant's salary account in authorized Bank through RTGS, within a period of two months from today.

(d) In the event the Applicant is held guilty of all/any of charges levelled against him in a pending disciplinary proceedings, the Management will be at liberty to consider this aspect and to pass appropriate order regarding recovery (or no recovery) of the balance 50% amount of subsistence allowance to be paid to the Applicant as directed above.

(e) In case this order is not complied within the time stipulated as above, the Applicant will be at liberty to approach the appropriate forum/authority by taking legal recourse.

(f) The Non-applicants are directed to permit the applicant to join the post of Associate Professor to render the service. The office order in this behalf be issued immediately.

(g) The management is directed to ensure expeditious disposed of pending inquiry against applicant and to issue necessary instructions to the Enquiry Officer in this behalf.

(h) The office is directed to issue authenticate copy of this order to both the parties at the earliest, for taking appropriate steps in the matter.

(i) In the facts and circumstances of the case, the parties are directed to bear their respective costs of this proceedings.

(j) This order is issued/pronounced today, in presence of the parties/their representatives.

Nagpur:


(Arvind J. Rohe)

Dated: 17.10.2019

Chairman, Grievances Committee,
Rashtrasant Tukadoji Maharaj
Nagpur University, Nagpur

Received 6971
31.10.2019
Dr. A. N. Sarda