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 issued on -
 Duration-06 years, 1 months 3 days



Rashttrasant Tukadoji Maharaj Nagpur University, Nagpur
BEFORE THE GRIEVANCES COMMITTEE.

(Presided over by Shri. Arvind J. Rohee, former District Judge.)

Grievance Petition No. 24/2013.

Applicant : Dr. Leena Sunil Konde,
 Rutugandh 739, New Subhedar Layout,
 Nr. Dattatrayanagar Corporation School,
 Nagpur. Mb.94236 02281

- **VARSUS** -

Non-applicants: 1. President/Secretary, Shri Sachhidanand
 Shikshan Sanstha, Koradi, Dist. Nagpur
 2. Principal, Arts, Commerce & Science
 College, Koradi. District Nagpur

ORDER

(Delivered on 28-11-2019)

1. The Applicant approached this Grievances Committee under section 79(1) of the Maharashtra Public Universities Act, 2016 alleging harassment by the Non-applicant No.2 Principal of the college and also challenged the punishment of withholding of increment.

2. The Applicant is serving as Assistant Professor in Botany under Non-applicant No.2 at Koradi since 01-01-2009. It is the grievance of the applicant that her increment due in the month of July 2013 was stopped by Principal on the ground that she made false noting in her daily diary regarding the classes allotted to her regarding conduct of the classes and the unit test conducted and

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thus misled the college administration. It was brought on record that on earlier occasion also the applicant had sought similar relief from the University against the harassment done by the management and the Principal of the college. The applicant brought this issue of harassment to the notice of the Hon'ble Vice-Chancellor, RTM Nagpur University Nagpur.

3. As per the version of the applicant she conducted her classes on 12-01-2013 and noted the same in her daily diary and in no way she misguided the college administration. But even then her increment due in July 2013 was stopped.

4. According to Non-applicants the applicant in her daily diary dt. 12-01-2013 made entry about holding of unit test, theory and practical work. The said entry is not only false but is misleading. On 12-01-2013 the "Krida Jyot" of University was to be received by the students and all the staff members at entry point of Koradi Naka and was to be escorted by all the students and the staff members to the college. It was further stated by Non-applicants that no curricular activities had taken place in the college on 12-01-2013 and no students had attended any class. Even then the applicant in her daily diary had shown that she conducted unit test of students on 12-01-2013. The dishonest intention of the applicant and indulging in falsehood was clearly established, according to the Non-applicants. The applicant had no courtesy to accept her mistakes but had raised unnecessary and misleading allegations against the Principal. But even then lenient view was taken and a minor punishment of stoppage of one increment was imposed by Non-applicants. Before imposition of punishment a show cause notice was issued to the applicant seeking her explanation about making



false entry in her daily diary, which is not answered satisfactorily. Hence minor penalty is awarded.

5. In view of this the following issues are raised,
- i) Whether holding the class and unit test on 12-01-2013 amount to misconduct on the part of applicant?
- ii) Whether for the above mentioned misconduct the stoppage of yearly increment is proper?

REASONS

6. The Non-applicants stated that Krida Jyot organized by RTM Nagpur University, Nagpur was to be received and welcomed by the college at Koradi Naka at 8-15 am on 12-01-2013. The notice was issued in respect of arrival of Krida Jyot and the said notice was signed by staff members including the Applicant. One more notice was issued regarding the celebration of Swami Vivekanand and Jijamata Jayanti at 10-30 am. in the college on 12-01-2013. This notice was also signed by the staff members including the Applicant. The Jayanti program which was celebrated at 11 am. in the college was attended by the employees including the Applicant. The photographs of the Krida Jyot program produced by the Non-applicant shows the presence of Applicant while welcoming the Krida Jyot. As per the daily diary submitted by Applicant she conducted unit test of B.Sc.II practical at 11-05 am. to 13-20 pm. on 12-01-2013. Record revealed that vide letter No.RTMNU/Griv cell/2015/708 dt. 16 February 2015 the Non-applicants were directed to submit certified copy of applicant's time of arrival and departure. Noting of muster roll dt. 12-01-2013 is also produced for our perusal, which shows applicant's presence in college on that day.

7. According to Applicant she was present in the college on 12-01-2013 at 7-15 am and signed the muster. As per scheduled

program the Krida Jyot was supposed to reach the college at 8-15 am and everybody was asked to remain present at Koradi Naka. At Koradi Naka all were made to understand that Krida Jyot will now reach after 10-00 am. and therefore, applicant came back in the college and engaged the class as mentioned in the daily diary report which is signed by the Head of the Department. The Krida Jyot was brought to the college at 10-30 am which was welcomed by staff members including Applicant.

8. From the record it is clear that on 12-01-2013 the Applicant was present in the college to welcome the Krida Jyot at 10-30 am. and attended the Swami Vivkenand and Jijamata jayanti program at 11 O'clock and there after she conducted her classes and test of which she made the entry in her daily diary. The daily diary is also signed by her Head of the Department. The only fact the she punched Biometric Card at 13-02 pm. on 12-01-2013 it doesn't convey the meaning that she has not attended the programme and conducted the classes and unit test. Further the punching record shows only one entry which can be taken as outgoing punch entry.

9. The discussion made above shows that the Applicant has not misguided the college administration and made no wrong entry in her daily diary regarding conduct of classes and unit test on 12-01-2013.

10. The Grievances Committee is of the considered view that even if two functions namely receiving Krida Jyot at college and celebrating Birthday Anniversary function, practically holiday was declared. However, no wrong was done by the applicant in conducting the classes and holding unit test, on that day perhaps with a view to complete the syllabus course. This is so because in order to complete the study course, sometime extra classes and unit

tests are required to be held on public holidays or before or after the normal teaching hours of the college. The record shows the Applicant's bonafide intention in attending the functions and taking extra class and unit tests. This cannot be treated as misconduct on the part of the Applicant in any manner whatsoever, warranting imposition of any punishment on her.

11. The explanation given by the applicant to the show caused notices issued by the Non-applicants No.2 dt. 28-03-2013, 05-04-2013, 25-04-2013 was not found satisfactory by the Non-applicants and having used unparliamentary language against the Principal, the punishment of stoppage of one increment was imposed by the Management.

12. While going through the correspondence made by the Applicant to the Non-applicant vide letters dt. 01-04-2013, 12-04-2013 and 29-04-2013 the language used by the applicant can not be said to be derogatory, unparliamentary or disrespectful towards the higher authorities.

13. The record shows that the Applicant has challenged the punishment of stoppage of one increment on the ground that it is illegal. Since punishment is based on the explanation given by the applicant, which was found to be not satisfactory by the Management, the provisions of Chapter VII of Ordinance No.122 are attracted in which elaborate provisions for conduct, discipline and appeals are made in Clause 38 to 41. Whereas Chapter VIII thereof deals with suspension, removal, dismissal, termination and retirement. Various grounds under which services of a permanent teacher can be terminated are stated in Clause 43, one of which is Misconduct. In Clause 49 thereof different punishments are prescribed which includes major as well as some minor penalties,



however, without classifying them to be so. Suspension is also provided as one of the punishments. Censure, fine to be deducted from salary and suspension can be treated as minor penalties. The rest namely withholding of increments or promotions including stoppage at an efficiency bar, reduction to a lower post or to a lower stage, recovery from pay of the whole or part of any pecuniary loss caused to the University by negligence or breach of order, removal from service which does not disqualify from future employment and dismissal from service which ordinarily disqualifies from future employment can conveniently be treated as major penalties.

14. Further, it is stated in Clause 45 of Chapter VIII of Ordinance No.122 that if any action is proposed to be taken against any teacher for any lapse a departmental enquiry shall be held and the teacher shall be given an opportunity to defend him.

15. In the present case, it is obvious that except issuance of show cause notices seeking reply, regular departmental enquiry for the alleged misconduct has not been initiated, undertaken or done by the Management against the applicant and simply holding that explanation is not satisfactory, one increment is withheld. It is obvious that this is not only unfair but unlawful since before imposition of punishment opportunity to defend the applicant has not been given, since no witnesses were cited nor any opportunity given to the applicant to cross examination them before the Enquiry Officer who is not appointed at all in this case. The rules nowhere prescribed imposition of minor punishment without holding enquiry, by issuing a charge-sheet for imposition of minor penalty. Thus this is a clear case of violation of the prescribed procedure including principles of natural justice and hence beside other reasons, the punishment imposed can't be allowed to sustain.



16. From the above deliberations and discussion amongst the members of the Grievances Committee, the issues are answered

as below-

- i) Finding as to issue No.1- The applicant made entries in her daily diary on 12-01-2013 for conducting classes and holding unit test which cannot said improper or illegal. She had attended both the programmes scheduled on that day as per the instructions of the Principal. She has not misguideda the administration by making any false entry in the daily diary. Hence the Applicant has not indulged in any misconduct. The issue No.1 is, therefore, answered in negative. The following operative order is, therefore, passed.
- ii) Finding as to issue No.2- Since issue No.1 is answered in the negative, the punishment imposed is liable to be set aside. Issue No.2 is also answered in the negative.

17. (a) Considering the fact that both the issues are answered in the negative, the punishment imposed is liable to be set aside. The same is accordingly quashed and set aside. The increment which was withheld be released and arrears thereof be paid to the Applicant within a period of three months from today, if not released earlier.

(b) Both the parties are, however, directed to take utmost care while dealing with each other in respect of official matters in future.

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

(d) Office to issue authenticate copy of this order to both the parties at the earliest.

Nagpur.

Dated-28-11-2019

(Arvind J. Rohee),
Chairman, Grievances Committee,
RTM Nagpur University, Nagpur.

Superintendent,
Grievances, Discipline, Statute & Legal Section,
Rashtrasant Tukadoji Maharaj
Nagpur University, Nagpur.