

## OFFICE ORDER

WHEREAS the Disciplinary/Competent Authority proposed to hold an inquiry against Ms. Aruna Kumar, Sr. P.A. to Principal, Atma Ram Sanatan Dharma College under Rule 66 & 67 of the University Non-Teaching Employees (Terms & Conditions of Service) Rules, 2013.

WHEREAS the Disciplinary/Competent Authority issued a Charge Memorandum dated 28.10.2022 against Ms. Aruna Kumar.

WHEREAS the Disciplinary/Competent Authority had appointed Sh. S.K. Tandon, ADJ (Retd.) as the Inquiry Officer and Mr. Parv Garg, Advocate as the Presenting Officer.

WHEREAS Ms. Aruna Kumar, Sr. P.A. to Principal, Atma Ram Sanatan Dharma College has supplied a "Bias petition against the learned Inquiry Officer" on 30.07.2023 thereby requesting to change the Inquiry Officer on the ground of bias against the Charged Officer.

The Disciplinary/Competent Authority has deliberated upon the request of Ms. Aruna Kumar and has passed the following order:

**1. Noncompliance of the Rule 66 (ii) and (iii) of the University Non-Teaching Employees (Terms and Conditions of Service) Rules, 2013**

- 1.1. It is the grievance of Ms. Aruna Kumar that as per Rule 66(2) it was mandatory for the Disciplinary Authority to conduct a Fact Finding Inquiry to inquire into the charges which has not been completed in the present case. Therefore, as per Ms. Kumar, absence of Fact Finding Report is fatal to the chargesheet.
- 1.2. Ms. Aruna Kumar has alleged that since the Inquiry Officer, after importing views of the Presenting Officer, has not taken note of the alleged error in the chargesheet, the same is evident of his bias against her.
- 1.3. Rule 66(2) is clear insofar as it prescribes that a Fact Finding Inquiry is only necessary in a case where the Disciplinary Authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against an employee. It is therefore apparent that the Fact Finding Inquiry is only optional and not *sine qua non* for issuance of chargesheet. This proposition is also supported by umpteen number of judgements by the Hon'ble Supreme Court and High Courts.
- 1.4. Accordingly, merely because a Fact Finding Inquiry has not been completed in the present case, that would not render the chargesheet illegal in the eyes of law.
- 1.5. Furthermore, merely because the Inquiry Officer has proceeded with the inquiry despite Ms. Kumar having pointed out that absence of Fact Finding Report is fatal, that would not amount to bias against her. Ms. Aruna Kumar has also not demonstrated as to how views of the Presenting

Officer have been imported by the Inquiry Officer against her. Therefore, there does not appear any bias of the Inquiry Officer against Ms. Aruna Kumar, on this ground.

**2. Noncompliance of Rule 66 (11) of the University Non-Teaching Employees (Terms and Conditions of Service) Rules, 2013**

2.1. It is the grievance of Ms. Aruna Kumar that as per Rule 66(11), it was mandatory for the Inquiry Officer to first grant an opportunity to the Charged Officer for inspection of originals of documents annexed with the chargesheet. However, as per Ms. Kumar, Inquiry Officer, on the advice of Presenting Officer, has accepted Evidence Affidavits of Management Witnesses prior to granting such opportunity for inspection of original documents. Therefore, as per Ms. Kumar, this alleged departure from Rule 66(11) shows bias of the Inquiry Officer against her.

2.2. It is evident from Order dated 31.03.2023 that Ms. Aruna Kumar was granted an opportunity in terms of Rule 66(11), to seek inspection of original documents within a week and the matter was adjourned for Management Evidence. However, it appears from the order sheets that on the next date of hearing i.e., on 24.05.2023, Ms. Aruna Kumar again made an oral request for inspection of original documents in terms of Rule 66(11). After hearing both the Defence Assistant and Presenting Officer, the Inquiry Officer granted another opportunity to Ms. Aruna Kumar for inspection of original documents even though the Evidence Affidavits of Management Witnesses had already been supplied as per order dated 31.03.2023. Accordingly, Ms. Aruna Kumar inspected the original documents on 02.06.2023.

2.3. Therefore, it is apparent that the Inquiry Officer had granted adequate opportunity to Ms. Kumar before proceeding with the Management Evidence, in terms of Rule 66(11). Furthermore, Ms. Aruna Kumar has not been able to demonstrate as to how the Inquiry Officer was acting on advice of the Presenting Officer.

2.4. Moreover, the allegation by Ms. Aruna Kumar that the inspection of documents was convened in a suspicious manner does not impute any bias to the Inquiry Officer and therefore, is not considered.

**3. Noncompliance of the Rule 66(12) of the University Non-Teaching Employees (Terms and Conditions of Service) Rules, 2013**

3.1. It is the grievance of Ms. Aruna Kumar that as per Rule 66(12), there is no mention of the authority or objection of the Presenting Officer. However, as per Ms. Kumar, the Inquiry Officer ignored Rule 66(12) and established his own method by calling comments of the Presenting Officer and finally disallowed so many documents by endorsing the view of the Presenting Officer.

3.2. A perusal of order dated 07.07.2023 has revealed that Ms. Aruna Kumar submitted an application for discovery of documents which was objected to by the Presenting Officer on the ground that the same is barred by delay and is only a ruse to delay the proceedings. Therefore, in the interest of justice, the Inquiry Officer directed the Presenting Officer to submit a written reply to the application by Ms. Kumar. Such direction by the Inquiry Officer only fortifies compliance with

the principles of natural justice. Thereafter, on 19.07.2023 the Inquiry Officer passed a detailed order allowing most of the documents sought by Ms. Aruna Kumar. Therefore, there does not appear to be any bias by the Inquiry Officer against Ms. Aruna Kumar.

**4. Noncompliance of the Rule 66(13) of the University Non-Teaching Employees (Terms and Conditions of Service) Rules, 2013**

4.1. It is the grievance of Ms. Aruna Kumar that as per Rules 66(12) & (13), the Inquiry Officer ought to have requisitioned the documents sought by her from the custodian of those documents. However, the Inquiry Officer sent the list of documents to the Presenting Officer who vetoed the entire chain of additional documents which shows the bias of the Inquiry Officer.

4.2. As per Rule 66 (12), the Inquiry Officer applied his independent mind and vide order dated 19.07.2023, directed the Management i.e., custodian of the documents to supply the same to Ms. Aruna Kumar. Therefore, there does not appear to be any violation of Rules 66(11) & (12) by the Inquiry Officer. Furthermore, the bias of the Inquiry Officer is also not discernible on this ground.

**5. The fact-finding Committee avoided suppressing the proceeding of sexual harassment proceeding against the Principal, of ARSD College**

5.1. It is the grievance of Ms. Aruna Kumar that even though she has filed a complaint Section 9 of the "The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013" against the Principal, ARSD College, who has selected and got appointed the present Inquiry Officer and the Presenting Officer, the suppression of the Fact-Finding Report or the Fact-Finding Inquiry has manifested efforts and strategy of the Inquiry Officer and the Presenting Officer, for which they have been working on the dots laid down by the guilty officers, against whom investigation being done by CAG, CBI and CVC and Delhi University, on the disclosure made by the undersigned.

5.2. In terms of Rule 64(b), the Governing Body of the College is the Disciplinary Authority of Ms. Aruna Kumar. Since both the Inquiry Officer and the Presenting Officer have been appointed by the Disciplinary Authority, the pendency of a complaint by Ms. Kumar under Section 9 against the Principal, if any, will not vitiate their appointment. Therefore, the allegation of bias against the Inquiry Officer on this ground, is meritless.

**6. Affidavit taken from the Management Witnesses**

6.1. It is the grievance of Ms. Aruna Kumar that as per Rules 66, there is no provision for calling affidavits from the Management Witnesses in substitute for a Fact Finding Inquiry. It is further stated by Ms. Kumar that if affidavit is taken in substitution of the statement, in the course of the inquiry, then this inquiry is a Fact Finding Inquiry as per rule 66 (2) viz., the Fact-Finding Inquiry which provides material in framing the chargesheet.

6.2. Rule 66(14) prescribes that on the date fixed for the inquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf of the

Disciplinary Authority. The witnesses shall be examined by or on behalf of the Presenting Officer and may be cross-examined by or on behalf of the employee.

- 6.3. Therefore, in terms of Rule 66(14), Evidence Affidavit of witnesses have been permitted to be filed to expedite the proceedings. Furthermore, this does not show any bias of the Inquiry Officer against Ms. Kumar.
7. The allegations and grievances stated by Ms. Aruna Kumar are primarily alleged procedural violations by the Inquiry Officer which in itself do not constitute a bias of the Inquiry Officer against her.
8. Accordingly, her request for change of the Inquiry Officer is rejected.

(Pawan Jaggi)

Chairman Governing Body

Ms. Aruna Kumar,

BH-6, 334-C, IInd Floor

Paschim Vihar, New Delhi – 110063

Copy to:

1. Shri. S.K. Tandon, Inquiry Officer  
Additional District & Sessions Judge (Retd.)
2. Shri. Parv Garg, Presenting Officer (Advocate)
3. Principal, Atma Ram Sanatan Dharma College