

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			WPSS 1179/ 2019 <u>Hon'ble Manoj Kumar Tiwari, J.</u> Mr. K.P. Upadhyaya, Advocate, assisted by Mr. Hemant Pant, Advocate for the petitioner. Mr. P.S. Bisht, Additional CSC, for the State/respondent no. 1 and 2. Mr. Parikshit Saini, Advocate, for the respondent no. 3 and 4. (2) Petitioner was serving as Junior Clerk in a minority institution, which is fully financed/aided by the State Government. Vide order dated 7.5.2019, he was terminated from the service by the Committee of Management of the concerned institution. Thus feeling aggrieved by his termination, petitioner has approached this Court. (3) Learned Senior Counsel appearing for the petitioner submits that petitioner's termination has been ordered on a trivial charge and without obtaining approval of the competent authority, in terms of provisions contained in Uttarakhand School Education Act, 2006 and the regulations framed thereunder in 2009. Thus, according to him, order of termination, passed against petitioner, cannot be sustained. (4) Mr. Parikshit Saini, learned Counsel for the Committee of Management of concerned institution,

			and Mr. P.S. Bisht, learned Additional CSC for the State, do not dispute the aforesaid submission that petitioner has been terminated from service without obtaining approval of the competent authority and they have admitted this fact in their respective counter affidavit. The only defence taken by the Committee of Management is that the protection, available to employees of the government aided institutions under Regulation 25 of Chapter 3 of the Regulations framed under Uttarakhand School Education Act, 2006, would not be available to petitioner as he is an employee of a minority institution. Regulation 25 is extracted below: “25— कर्मचारियों को प्राप्य दण्ड, जिसके लिए जिला शिक्षा अधिकारी की पूर्व स्वीकृति आवश्यक होगी, निम्नलिखित में से किसी एक रूप में हो सकती है :— (क) पदच्युति (वियुक्ति) । (ख) पद से पृथक्करण (प्रमुक्ति) । (ग) श्रेणी में अवनति । (घ) परिलब्धियों में कमी । चतुर्थ श्रेणी कर्मचारियों को उपरोक्त कोई दण्ड देने हेतु प्रधानाचार्य अथवा प्रधानाध्यापक सक्षम होगा । सक्षम अधिकारी द्वारा दण्ड दिये जाने की दशा में चतुर्थ श्रेणी कर्मचारियों द्वारा प्रबन्ध समिति को अपील की जा सकेगी । यह अपील दण्ड सूचित किये जाने की तिथि से एक माह के अन्दर प्रस्तुत हो जानी चाहिये और उस पर प्रबन्ध समिति द्वारा निर्णय कर अपील की प्राप्ति की तिथि से अधिकतम 6 सप्ताह के भीतर दे दिया जायेगा । समस्त आवश्यक अभिलेखों पर विचार करने एवं कर्मचारी की, यदि वह प्रबन्ध समिति के समक्ष स्वयं उपस्थित होना चाहे, सुनवाई के पश्चात् प्रबन्ध समिति अपील पर निर्णय देगी । चतुर्थ श्रेणी कर्मचारी को यह भी अधिकार होगा कि
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			उसकी अपील पर किये गये प्रबन्ध समिति के निर्णय के विरुद्ध वह जिला शिक्षा अधिकारी को, निर्णय सूचित किये जाने की तिथि से एक माह के अन्दर अभ्यावेदन कर सकेगा। किन्तु प्रतिबन्ध यह होगा कि यदि प्रबन्ध समिति उपर्युक्त निर्धारित छः सप्ताह की अवधि के भीतर अपना निर्णय उपरोक्त अपील पर न दे तो संबंधित कर्मचारी अपना अभ्यावेदन सीधे जिला शिक्षा अधिकारी को उपरोक्त छः सप्ताह की अवधि बीत जाने पर दे सकता है। जिला शिक्षा अधिकारी द्वारा उपरोक्त अभ्यावेदन पर अभ्यावेदन की प्राप्ति की तिथि से अधिकतम तीन माह के भीतर निर्णय दे दिया जायेगा और यह निर्णय अन्तिम होगा। अभ्यावेदन के प्रस्तुतीकरण विचार एवं निर्णय के सम्बन्ध में आवश्यक परिवर्तन के साथ इस अध्याय के विनियम 75 से 86 लागू होंगे। ” (5) The contention made by Mr. Parikshit Saini is unacceptable. The provisions contained in Uttarakhand School Education Act, 2006 and the regulations framed thereunder are applicable to employees across the board, including teaching and non-teaching employees of the government aided institutions. Although for the minority institution, there are certain other provisions, however, there is nothing to indicate in Regulation 25 of Chapter 3 of the aforesaid regulations, on which reliance has been placed by petitioner, that it is not applicable to the minority institutions. Section 38 of Uttarakhand School Education Act provides that appointment in a minority institution can be made after approval of the competent authority, therefore, no teaching or non-teaching employee of the minority institution can be
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			terminated from service without approval of the competent authority. (6) Since approval, as contemplated under Regulation 25 of Chapter 3 of the aforesaid regulations, has not been obtained in the present case, therefore, impugned termination order cannot be sustained and is liable to be set aside. Accordingly, writ petition is allowed. Impugned order dated 7.5.2019 is set aside. Petitioner shall be reinstated in service along with all consequential benefits. (Manoj Kumar Tiwari) A.C.J. 20.12.2023 Pr
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