



SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<u>WPMS/106/2023</u> Shri Guru Nanak Senior Secondary School Kundeswary Road Kashipur --Petitioner Versus Inderpal Singh --Respondent <u>Hon'ble Manoj Kumar Tiwari, J.</u> Mr. Dushyant Mainali, Advocate for the petitioner. 2. Mr. Amar Murti Shukla, Advocate for the respondent. 3. Management of an unaided school affiliated with CBSE has filed this petition under Article 226 of the Constitution challenging the judgment and order dated 06.08.2022, passed by Education Tribunal/District Judge, Udham Singh Nagar, whereby appeal filed by a teacher (respondent herein) against termination of service, was allowed. 4. It is not in dispute that respondent was appointed as Librarian Teacher in Sri Guru Nanak Senior Secondary School, Kashipur on 03.08.2011 and his services were terminated <i>vide</i> order dated 12.08.2014. 5. Respondent challenged his termination by filing appeal before Education Tribunal constituted in terms of judgment rendered in the case of <i>T.M.A. Pai Foundation & Ors vs State of Karnataka & Ors</i>, reported as AIR 2003



			SC 355. 6. Learned Tribunal allowed the appeal filed by respondent by holding that since the termination order passed against respondent is based on certain charges, therefore, his services could not be terminated without holding a formal disciplinary inquiry. 7. The defense taken by petitioner before Education Tribunal was that respondent was involved in anti school activities; he staged a <i>dharna</i> at the school gate and instigated the students and teachers against the management; respondent remained unauthorizedly absent from the school for several days and he held <i>dharna</i> in front of the school against the management, which vitiated the atmosphere of the school, therefore, respondent was terminated from service, after issuing a show cause notice. The show cause notice is on record as Annexure-2 to the writ petition, in which, it is alleged that respondent violated employees code of conduct-(i) by defying orders of the Management; (ii) obstructing other member of staff from attending duties; (iii) holding meeting during school hours in front of the school gate; taking part in school politics and forming union. 8. In his reply to the show cause notice, respondent denied the allegations and narrated his side of story. The termination order, issued by the Manager, however has not considered the defense taken by respondent in his reply.
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			9. Learned Tribunal, after considering the rival contentions made on behalf of the parties, held that the termination order passed against respondent is unsustainable in the eyes of law, as no disciplinary inquiry was held to bring home the charges against the respondent. 10. Law is well settled that whenever, an employee is discharged or dismissed from service for misconduct, then disciplinary inquiry has to be held to bring home the charge against him, as held by Hon'ble Supreme Court in the case of <i>Novartis India Limited v. State of West Bengal and others</i>, (2009) 3 SCC 124. Paragraph no. 18 of the said judgment is reproduced below:- <i>"18. When an employee does not join at his transferred place, he commits a misconduct. A disciplinary proceeding was, therefore, required to be initiated. The order of discharge is not a substitute for an order of punishment. If an employee is to be dismissed from services on the ground that he had committed a misconduct, he was entitled to an opportunity of hearing. Had such an opportunity of hearing been given to them, they could have shown that there were compelling reasons for their not joining at the transferred places. Even a minor punishment could have been granted. The appellant precipitated the situation by passing a post-haste order of termination of their services."</i> 11. Thus, this Court concurs with the view taken by the Education Tribunal. 12. The writ petition is, accordingly, dismissed. However, the salary, if paid to respondent in lieu of notice, shall be adjustable with the backwages/salary payable to the respondent. (Manoj Kumar Tiwari, J.) 11.08.2026
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