

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Letters Patent Appeal No.551 of 2015 (O&M)

Date of Decision: April 10, 2015

S.B.N.S.D. Girls Senior Secondary School

.....Appellant

versus

State of Haryana and others

.....Respondents

Letters Patent Appeal No.552 of 2015 (O&M)

The Managing Committee of S.B.N.S.D. School and
others

.....Appellants

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE P.B.BAJANTHRI.

Present:Mr.Sanjay Jain, Advocate, for the appellant(s)

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1. Whether Reporters of Local papers may be allowed to see the
judgment?yes

2. To be referred to the Reporters or not?yes

3. Whether the judgment should be reported in the Digest?

Surya Kant, J. (Oral)

This order shall dispose of LPA Nos.551 & 552 of 2015 as both the appeals have arisen out of the order dated 21.01.2015 passed by learned Single Judge whereby the appellant-Management's writ petition has been disposed of, in a way, having become infructuous.

[2] The appellant is a privately managed Government Aided School which receives 95% grant-in-aid from the State. The service conditions of teachers and other employees appointed in the appellant-School against the sanctioned posts

are governed in accordance with the provisions of Haryana Aided Schools (Security of Service) Act, 1971 (hereinafter referred to as '1971 Act') and the Rules framed thereunder.

[3] Respondent No.3, who apparently lost her husband at a young age, was appointed as a Peon in the appellant-School against duly sanctioned post w.e.f. 01.01.1997. After extending the probation period, the services of respondent No.3 were dispensed with on 29.11.1999.

[4] Respondent No.3 alleged that it was not a case of simpliciter termination of her services during probation period, rather she was being victimized and harassed, for which she levelled allegations against the Manager of the School. Respondent No.3 approached this Court by way of a writ petition and she also filed an appeal-cum-representation before the authorities in the Education Department who are conferred with statutory powers under the 1971 Act.

[5] The District Education Officer, Ambala, then passed the order dated 10.05.2000 (Annexure P-1) holding that there was no justification for extending the probation period of respondent No.3 and that the Principal of the School acted illegally in doing so. It was further found that there was no material to substantiate the adverse remarks made in the confidential report of respondent No.3.

[6] Having held so, the District Education Officer, further observed that it was not necessary for him to look into the allegations made by respondent No.3 against the Manager of the School. Consequently, he set-aside the order of termination of services and ordered reinstatement of respondent No.3.

[7] The appellant-Management challenged the above-stated order of the District Education Officer, by way of a writ petition before this Court in which the following order was passed on 27.04.2001:-

“... Heard.

Admitted.

The writ petition be listed for hearing on 01.10.2001.

The interim stay is hereby vacated.

In the meantime, the order passed by the District Education Officer, be given full effect by the Management. Even if the Management does not wish to get any work from respondent No.3, they must pay her full salary from today onwards.....”

[8] Learned counsel for the appellant-Management fairly states that in deference to the above reproduced order, respondent No.3 has been paid her salary regularly for the last about 15 years. It was in this backdrop that the learned Single Judge declined to go into the merits of the case and disposed of the Management's writ petition as infructuous.

[9] We have heard learned counsel for the appellant(s) at a considerable length and gone through the record.

[10] It may be true that an interim or interlocutory order passed during pendency of lis would not render the writ petition infructuous and to that extent, learned Single Judge may not be right. However, in all fairness, we have heard learned counsel for the appellant(s) with reference to their challenge laid to the order passed by the District Education Officer.

[11] We are satisfied that it was not a case where the probation period of respondent No.3 could be extended or her services be dispensed with for want of satisfactory work and conduct.

[12] Respondent No.3 was engaged as a Peon to perform manual duties. In the absence of even a single specific instance, it is difficult to accept that she could not perform the miscellaneous or manual duties of a Peon to the expectation of the School-staff. The appellant-Management, during the pendency of the writ petition, also never sought any further direction or modification of the interim order nor the early hearing of the case, which is further suggestive of the fact that during the integrum too there was no serious complaint against the working of respondent No.3. At this juncture of her service career, we see no reason to permit the appellant(s) to dispense with the services of respondent No.3 on the ground that in the year 1997-98, her work or conduct was allegedly unsatisfactory.

For the reasons afore-stated, we uphold the order dated 10.05.2000 passed by the District Education Officer, Ambala. As a necessary corollary, the appeals must fail and the same are hereby dismissed.

[SURYA KANT]
JUDGE

April 10, 2015
mohinder

[P.B.BAJANTHRI]
JUDGE