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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA-864-2015[O&M]

Date of Decision : November 20th, 2015

Mohammad Farooque

.... Appellant

Versus

State of Haryana and others.

.... Respondents

**CORAM : HON'BLE MR. JUSTICE SATISH KUMAR MITTAL
HON'BLE MR. JUSTICE SHEKHER DHAWAN**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present Mr.Vikas Chatrath, Advocate,
for the appellant.

SHEKHER DHAWAN, J.

For the reasons mentioned in the application, which is supported by the affidavit, delay of 48 days in filing the appeal stands condoned. CM No. 1804-LPA of 2015 stands disposed of.

Main Appeal

Present intra-court appeal under Clause X of the Letters Patent has been filed by the appellant against the order dated 3.3.2015 whereby writ petition filed by the petitioner-appellant was dismissed and the order 1.5.2015 vide which the review application filed by him was also dismissed by learned Single Judge.

The petitioner-appellant originally filed a writ petition bearing CWP-19928-2011 under Article 226 of the Constitution of India for issuance of a writ in the nature of certiorari to quash order dated 1.9.2011/17.8.2011

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[Annexure P/4]. Appellant was appointed as Math Master on 6.7.1994. During the year 2004, the result of Math subject of the students was exceptionally bad to the extent that only 4.69% students could pass in the Matriculation examination and 19.35% in the Middle examination. Regular enquiry was initiated against the petitioner and he was placed under suspension. The Management recommended for dismissal of the appellant from service and the same was accepted vide order dated 10.11.2006. The said order was challenged by way of appeal, but the appeal was also dismissed.

Learned Single Judge while considering the matter and keeping in view the length of service put in by the petitioner-appellant, disposed of the writ petition with a direction that the petitioner would be compulsory retired with effect from 10.11.2006 and accordingly, the petitioner was held entitled to the benefits.

Learned counsel for the appellant, *inter-alia*, took the plea that learned Single Judge has completely ignored the fact that the appellant had been performing his duties to the best of his ability and the order of dismissal of the appellant should have been set-aside in toto.

Learned counsel for the appellant while arguing this point tried to take the plea that performance of the appellant was comparatively better than other teachers who were similarly placed and were taking up other subjects in the area of Mewat.

We have perused the comparative table referred to by the learned counsel for the appellant on this point, but found that the result of Math subject, taught by the appellant, was prominently on the lower side in comparison to other subjects like Hindi, English, Social Science, Physics

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Chemistry, Urdu and Sanskrit. A perusal of the table mentioned in para 10 (i) of the writ petition [at internal page 52 of the paper book] would clearly show that in the Matriculation examination in the year 2004-2005, the school result of Math subject was 4.69% only, whereas the result of other subjects i.e., Hindi, English, Social Science, Physics/Chemistry/Life Science, Urdu and Sanskrit was 59.38%, 18.75%, 37.50%, 12.50%, 63.16% and 84% respectively. Similarly, for Middle class Examinations in the year 2003-2004, the school result of Math subject was 19.35% only, whereas the result of other subjects i.e., Hindi, English, Social Science, Physics/Chemistry, Urdu and Sanskrit was 35.55%, 40.00%, 28.88%, 11.11%, 27.78% and 37.03% respectively. It appears that the Management had to take the decision regarding dismissal of the appellant from service only because of poor results of 8th and 10th class examinations for the years 2003-2004 and 2004-2005 and the valid presumption was that the appellant did not take any interest in teaching his subject.

Learned Single Judge has considered all these aspects while dealing with the matter and at the time of passing of orders under appeal and a lenient view has already been taken by learned Single Judge in this respect. We are not inclined to interfere in the well reasoned order passed by learned Single Judge. We find no merit in the appeal and the same stands dismissed.

(SATISH KUMAR MITTAL)
JUDGE

(SHEKHER DHAWAN)
JUDGE

November 20th, 2015

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