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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7271 OF 2016

Acharya Atre Vikas Pratishthan Purandar & Anr.	...Petitioners
V/s.	
Sunil Narayan Vadhane	...Respondent

Mr.Rahul Kate for the Petitioners.

Ms.Kumud Bhatia for the Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 5TH JULY, 2016.

P.C. :-

1. By this petition filed under Article 227 of the Constitution of India the petitioners have impugned the order dated 6th August, 2015 passed by the Learned Presiding Officer, School Tribunal, Pune, allowing the appeal filed by the respondent under section 9 of the Maharashtra Employees of Private Schools (Conditions of Services) Regulation Act, 1977 and directing the management to reinstate the respondent in service with full back wages with all consequential benefits. Some of the relevant facts for the purpose of deciding this writ petition are as under :

2. The respondent was appointed in clear and permanent post as a full time Laboratory Assistant on probation period with effect

from 15th February, 2003 by following due process of selection. The Education Officer had approved his appointment. He became permanent employee in the school after completion of probation period. It is the case of the respondent that his behavior and work was satisfactory during the entire service period. No memo was issued against him prior to 1st September, 2014 and his entire service record remained clean and clear.

3. The respondent was suspended from his duty from 28th March, 2014 vide order dated 27th March, 2014. The petitioners thereafter commenced an enquiry against the respondent. The enquiry committee consisted of three persons including the members nominated by the respondent. The petitioner had issued statement of allegations to the respondent prior to the constitution of the enquiry committee, which was responded to by the respondent.

4. There were 8 charges levelled against the respondent by the management including a charge that the respondent had alleged to have outraged the modesty of Mrs.Sarika Londhe due to which she had filed a complaint against the respondent in the concerned police station under section 354 of the Indian Penal Code. He was thus arrested by the police and due to which the reputation of the petitioner school was alleged to have been defamed. The remaining charges against the respondent were very minor in nature.

5. Both the parties led evidence before the enquiry committee.

6. Insofar as the criminal complaint filed against the respondent under section 354 of the Indian Penal Code is concerned, it is not in dispute that in the said proceedings the said complainant Mrs.Sarika Londhe had given her evidence. In the said proceedings, the respondent has admittedly acquitted by the Criminal Court. The said order of acquittal admittedly was not challenged by the State.

7. It is also an admitted position that the said complainant however did not appear before the enquiry committee to prove the allegations made by her in her complaint made against the respondent. Though the complainant did not appear before the enquiry committee, the enquiry committee held the respondent guilty of such charge of molestation.

8. Mr.Kate, learned counsel appearing for the petitioners invited my attention to the findings recorded by the school tribunal and submits that since the said complainant was not available when the enquiry against the respondent had commenced before the enquiry committee she could not be examined. He submits that merely because the respondent was acquitted in the complaint filed by Mrs.Sarika Londhe before the Criminal Court that could not be a ground for allowing the appeal filed by the respondent.

9. A perusal of the record indicates that it is not in dispute that though the said complainant had appeared before the Court of J.M.F.C. In R.C.C. No.48 of 2014, which complaint resulted in acquittal of the respondent, though she had made serious complaint of outraging her modesty against the respondent, she chose to remain absent before the enquiry committee. In my view, the said complainant having remained absent to prove such serious charges against the respondent, the enquiry committee could not have rendered any finding against the respondent on such issue of outraging modesty.

10. Insofar as the other seven charges levelled against the respondent are concerned, I have perused the order passed by the School Tribunal, Pune. A perusal of the said order clearly indicates that the school committee has considered the entire evidence led before the enquiry committee on each of the charges levelled against the respondent by the management and has rendered a finding of fact that all those charges were vague and were not proved before the enquiry committee. The findings of fact recorded by the school committee in the impugned order, in my view, are not perverse and thus cannot be interfered with by this Court in this petition filed under Article 227 of the Constitution of India.

11. In my view, the school tribunal was justified in directing the

management to reinstate the respondent in service with full back wages with all consequential benefits.

12. The writ petition is devoid of merits and is accordingly dismissed. No order as to costs.

(R.D. DHANUKA, J.)