

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 625 of 2015

1. H. C. Bhattacharya S/o Late H. N. Bhattacharya, Aged About 62 Years
R/o 1/ 665, Tikra Para, Raipur, Tahsil & District Raipur
(Chhattisgarh).....(Originally Petitioner)

---- Appellant

Versus

1. Board Of Secondary Education & Teachers Training Madhya Pradesh,
Church Of North India, Napier Town, Jabalpur Through Its Secretary,
B. K. Yuel, C/o Salem English School, Raipur, Tahsil And District
Raipur (Chhattisgarh)
2. The Principal, Salem English School, Raipur, Tahsil And District Raipur
(Chhattisgarh)
3. Managing Committee Of Board Of Secondary Education & Teachers
Training, C. N. I . Napier Town, Jabalpur (Madhya Pradesh).....
(Originally Respondents)

---- Respondents

For Petitioner	: Shri Sachin Singh Rajput, Advocate
For Respondents	: Dr. N.K.Shukla, Sr. Counsel assisted by Shri Sourabh Sharma, Advocate

Hon'ble Shri Thottathil B.Radhakrishnan, Chief Justice
Hon'ble Shri Pritinker Diwaker, J.

Judgment On Board

Per Thottathil B.Radhakrishnan, Chief Justice

22/03/2017

We have heard learned counsel for the appellant and the learned Senior counsel for the contesting respondents.

2. The writ appeal is by the writ petitioner who challenged his removal from service by instituting a writ petition under Article 226 of the Constitution, though the employer is admittedly a private unaided educational institution. Notwithstanding that the said institution belongs to a minority community, the fact of the matter remains that the learned Single judge had noted that clause

78(3) of the Regulations framed by the Board of Secondary Education in 1968 provided for a statutorily inbuilt redress grievance mechanism which is provided for arbitration. It was by making a reference to such provision that the writ petition was not decided finally though it was pending before this Court for nearly 19 years.

3. We have bestowed our anxious consideration to the forceful submissions by the learned counsel for the appellant that the writ petition having been pending before this Court for nearly two decades, it ought not to have been dismissed on the ground of alternative remedy. This submission, though is quite appealing at the first blush, on the deeper consideration we are of the view that it would not be permissible for us to substitute the view of the learned Single Judge rendered in that regard. We say this for different reasons. Firstly, we note that the arbitration clause provided through Regulation 78(3) of the Regulations is a comprehensive one which can take note of all disputed questions of fact and law, thereby having a more wider sphere for adjudication than those issues which could be adjudicated in writ jurisdiction. Secondly and more importantly, non-invocation of the arbitration clause in the statutory regulations which govern the employer and the employee is not explained by the writ petitioner to demonstrate that recourse to writ jurisdiction is to be favoured in comparison to the comprehensive remedy of arbitration available under the Regulations. Thirdly, we see that the parties were before the civil court and even before the civil appellate jurisdiction of this court, may be immediately before the termination, in connection with the proceedings by way of suspension from service etc. On the whole, we are satisfied that the decision of the learned Single Judge relegating the parties to arbitration in terms of the Regulations cannot be found fault with either on the question of jurisdiction or on any issue of illegality.

4. Be that as it may, it is necessary for us to lay down specifically that the arbitrator whose jurisdiction may be invoked by the appellant shall ensure that

the arbitration proceedings are not dealt with as if they are time-barred or delayed; however, that the arbitrator shall make all endeavor to adjudicate and decide on the matter without delay in view of the fact that the writ petitioner has already passed the age of superannuation, had he continued in service. We are sure that the learned arbitrator whose jurisdiction may be invoked would do the needful to conclude the proceedings within an outer limit of six months from the date of such invocation.

5. We also vacate all the findings and observations in the impugned order and clarify that the proceedings before the learned arbitrator shall be carried untrammelled by anything stated in the impugned order rendered by the learned Single Judge.

6. The writ appeal is ordered accordingly.

Sd/-

(Thottathil B.Radhakrishnan)
Chief Justice

Sd/-

(Pritinker Diwaker)
Judge