

HON' BLE SRI JUSTICE SURESH KUMAR KAIT
&
HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.A. No. 1396 of 2016

JUDGMENT:- (ORAL)

(Per Hon'ble Sri Justice Suresh Kumar Kait)

This writ appeal is preferred against the order dated 26.09.2016 in W.P.No. 14188 of 2016 passed by the learned Single Judge of this Court.

Heard the learned counsel for both the parties at length and perused the material placed on record.

The undisputed facts of the case are that while the 1st respondent was working as Principal-cum-Sanskrit Adhyapaka in Veda Patasala, his services were terminated by an oral order. Being aggrieved, he made a representation before the Commissioner of Endowments - appellate authority, however the same was rejected vide order dated 09.10.2015. Challenging the same, he filed W.P.No.14188 of 2016 and the learned Single Judge allowed the writ petition vide order dated 26.09.2016 by setting the oral termination and also the order dated 09.10.2015 of the appellate authority and directed that the 1st respondent shall be placed in the regular pay scale applicable to the teachers of Veda Patasala.

The learned Standing Counsel for Endowments appearing for the appellant has pointed out that the prayer of the 1st respondent in the writ petition was that the action of the

appellant in orally asking the 1st respondent not to attend the institution and the issuance of Proceedings in Rc.No.A1/ 21776/ 2015, dated 09.10.2015 are contrary to law, however the learned Judge in addition to the relief granted as prayed for, directed the appellant to place the 1st respondent in the regular pay scale as applicable to the Teachers of Veda Patasala. The learned counsel further submits that even though the 1st respondent has not sought the relief of grant of regular pay-scale, the learned Single Judge erroneously granted the relief unasked for.

The learned counsel for the 1st respondent has fairly conceded that the 1st respondent did not seek the relief of regular pay-scale in the writ petition, but keeping in view the facts and circumstances of the case, the learned Single Judge thought it proper and gave such direction.

We find force in the submission of the learned Standing Counsel for the appellant. Therefore, we set aside the observation made by the learned Single Judge to the extent that the 1st respondent shall be placed in regular pay-scale applicable to the Teachers of Veda Patasala.

It is pertinent to note that inasmuch as the 1st respondent was terminated based on oral statement and his appeal before the Commissioner of Endowments was dismissed, the learned Single Judge has directed the appellant

to reinstate the 1st respondent into service. Obviously, while reinstating the 1st respondent into service, the appellant shall take a decision on the aspect of placing him on a regular pay-scale as directed by the learned Single Judge subject to his eligibility. Therefore, to this effect, the appellant –Executive Officer shall take decision within a period of four weeks from today while maintaining the other directions given by the learned Single Judge.

With the above observations, the writ appeal is disposed of. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

22.02.2018

SURESH KUMAR KAIT, J

bcj

ABHINAND KUMAR SHAVILI, J