

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.29441 of 2017
Date of decision: 11.01.2018

Nand Lal Geeta Vidya Mandir and another

... Petitioners

Versus

Promila and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Sanjay Jain, Advocate for the petitioners.

ARUN PALLI, J. (Oral)

The present petition has been filed against the order and judgment dated 11.08.2017 (Annexure P1), rendered by the District Judge Ambala, exercising the powers of the Educational Tribunal, vide which the private respondent has been ordered to be re-instated with consequential benefits.

The facts that are required to be noticed are limited.

Respondent No.1 was engaged in the services of the petitioners as Nursery Teacher since 19.04.2000. She was B.A. and NTT qualified. She had even completed her Acharya Prashikshan Varg. However, in April 2015, she was not allowed to mark attendance in the *Regular attendance register*. But she still continued to perform her duties. However, it was on 31.05.2015, she was not permitted to enter the school premises, as instructed by the Principal, and resultantly, her services were terminated.

The termination of services of respondent No.1 was sought to be justified by the petitioner-Management on the ground that she used to

remain on leave most of the time. Resultantly, the studies of the students was seriously affected. There was also a complaint against her regarding refusal to sign the office order. Further, she was asked to clear her D.Ed/B.Ed/M.Ed examination by 31.03.2015, but she never complied with those instructions. Though she continued to come to the school till 21.04.2015, but thereafter on her own volition she did not report for duty.

On a consideration of the matter in issue and the material on record, the Tribunal reached a conclusion that ex facie the services of respondent No.1 was terminated on account of alleged misconduct, but concededly the respondent No.1 was neither afforded any notice or opportunity of hearing, least any inquiry was held. In so far as the requirement to qualify D.Ed/B.Ed/M.Ed examination, no evidence was brought on record to show that respondent No.1 was indeed required to qualify any of these examinations under the rules governing her service conditions. Even otherwise, nothing was brought on record to show that services of respondent No.1 was indeed terminated for any of those reasons. Not just that, in the written statement filed by the petitioners before the Tribunal, it was rather conceded that no notice was ever issued to respondent No.1 terminating her services as she did not qualify the requisite examination. Although, she was stated to have stopped reporting for duty on her own volition or absented, but again no notice was ever sent to respondent No.1 ever in this regard. So much so, Ashwani Kumar (RW3), examined by the respondents, deposed in his cross-examination that the Management was still willing to take back respondent No.1 unconditionally, but without full back wages. Which shows that the Management was convinced that the termination of respondent No.1, in the given

circumstances was indefensible. On being pointedly asked, learned counsel for the petitioners could not show as to how the conclusion arrived at by the Tribunal was either contrary to the record or suffered from any material illegality.

That being so, no interference is warranted in exercise of extraordinary writ jurisdiction under Article 226/227 of the Constitution of India. Petition being devoid of merit is, accordingly, dismissed.

11.01.2018
Rajan

(Arun Palli)
Judge

Whether speaking / reasoned:
Whether Reportable:

YES
NO