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19.3.2021

gd/ssd

CPAN 1294 of 2019
in
FMA 30 of 2020
(Through Video Conference)

Indrani Raha Sarkar
Vs.
Dr. Sugata D'Souza & Ors.

Mr. Amal Baran Chatterjee
Mr. Sabyasachi Mukherjee
Ms. Arunima Das Sharma
Mr. Bibek Dey
Ms. Debarati Chowdhury
..for the Petitioner.

Mr. Supratim Dhar
Ms. Munmun Tewary
..for the alleged Contemnors.

The school has removed the writ petitioner from service. The rules permit that the disciplinary authority can impose suspension, removal or dismissal from service against any staff of the school for any of the misconduct or indisciplinary action detrimental to the institution in terms of clause 8(g) of the Salt Lake School (English Medium) Society.

Mr. Dhar, learned counsel appearing on behalf of the contemnors relied upon a decision of the Hon'ble Supreme Court in *Mohammad Abdul Salam Khan v. Sarfaraz Ahmad Khan and Others* reported in (1975) 1 SCC 669 to argue that there is a distinction between dismissal and removal. It is submitted that removal

although is a termination of service but it does not disqualify from future employment.

Although the matter is debated as to whether in the facts and circumstances of the case the removal, in fact, is dismissal or not and the letter of 9th February, 2021 *per se* does not say that the said order of removal would not disqualify her from future employment, having offered an explanation for removing the petitioner from the service of the school based on its rules, we are of the view that the contempt proceeding is not the appropriate remedy. There cannot be any doubt that there was a contempt in so far as release of subsistence allowance which have now been complied with. The petitioner has received a sum of Rs.8,75,165/- on 13th February, 2021 towards her admissible dues which she was otherwise entitled to receive prior to the conclusion of disciplinary proceedings. We are not expressing a final view as to whether the disciplinary proceedings stand vitiated for delayed payment of the subsistence allowance and other dues nor we express any opinion as to whether the removal from service would be a disproportionate punishment considering our earlier order dated 2nd August, 2019. An unconditional apology has been tendered on behalf of the contemnor Nos.2 and 4 for belated compliance of this order in making payment of the admissible dues. We accept

such apology. We make it clear that this order shall not prevent the writ petitioner to take appropriate steps in accordance with law against the order dated 9th February, 2021.

Contempt application stands disposed of.

(Soumen Sen, J.)

(Ravi Krishan Kapur, J.)

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