

Item-58. 12-09-2023

sg Ct. 8

FMA 1153 of 2022
CAN 1 of 2022

Nur Mohammad Smriti Mahavidyalaya & Ors.
Versus
Smt. Soma Sarkar & Ors.

Mr. Shamim ul Bari, Adv.
Mr. Atarul Haque Molla, Adv.
...for the appellant
Ms. Papiya Chattopadhyay, Adv.
...for the writ petitioner

1. The appeal is directed against an order dated 23rd March, 2022 arising out of a writ petition in which the writ petitioner has challenged the impugned notice of termination dated 27th January, 2020. The writ petitioner was appointed as a Computer Technician on 12th April, 2012 purely on temporary basis. She allowed to continue till her service was terminated.
2. The petitioner alleged that since there was no increment of salary, she was deprived of other benefits. She wrote several letters to the College authorities between 2018 and 2019 and out of sheer vindictiveness, the notice of termination was issued without giving any opportunity to the writ petitioner to represent her case. It is submitted that the Finance Department has issued circulars to the College authorities on the question of the enhancement of the monthly remuneration and certain other terminal benefits to casual and contractual workers, which includes the petitioner.
3. There is no doubt that several letters were addressed by the writ petitioner demanding honorary pay in terms of Government Circulars. We do not find any reason given by

the College for not adhering to such demands. If a letter of termination is a fall-out of an legitimate claim being made by the writ petitioner, then such letter of termination must perish and liable to be set aside, apart from the fact that she was not given any liberty to represent her case against the misconduct alleged against her. The issue would have been different. If the contract of employment of the writ petitioner was not renewed from to time and the letter of termination does not make any aspiration as to her conduct and behaviour.

4. The letter of termination is stigmatic and cannot be upheld unless the principle of natural justice is followed and adhered to by the authorities concerned. The impugned letter of termination is cryptic and devoid of any reason. Moreover, the staff pattern justified her absorption and the only ground appears to be that she made legitimate demand about her salaries that had resulted in her dismissal. Although an appointment has been made, that persons who have been given an appointment even on contractual or temporary basis, have been absorbed following the staff pattern and the petitioner was victimized because of her protests.
5. We are not presently going into such issue, however, it is no doubt that the manner of dismissal is unsustainable in law. In view thereof, we do not find any reason to interfere with the order passed by the learned Single Judge.
6. The appeal fails. However, there shall be no order as to costs. The appeal and the application are, accordingly, dismissed.

(Siddhartha Roy Chowdhury, J.)

(Soumen Sen, J.)

