

(2005) 08 RAJ CK 0039

In the Rajasthan High Court

Case No : Civil Writ Petition No. 6626 of 2003

Agrawal Kanya Pathshala Samiti (Shri) and Another

APPELLANT

Vs

Gopal Krishan Sharma and Others

RESPONDENT

Date of Decision : 24-08-2005

Acts Referred:

Rajasthan Non-Government Educational Institutions (Recognition, Grant-in-aid and Service Conditions etc. Rules, 1993 — Rule 30

Citation : (2005) 4 RLW 2997

Hon'ble Judges : Shiv Kumar Sharma, J

Bench : Single Bench

Advocate : Ashok Gaur, for the Appellant; Sunil Samdariya, for the Respondent

Final Decision : Dismissed

Judgement

Shiv Kumar Sharma, J.—The petitioner Institution (for short "Institution") appointed the respondent (for short "employee") on the post of Senior Clerk in the grade of 1200-2050 vide order dated September 14, 1991 and placed him on probation for a period of one year. The period of probation was further extended upto September 15, 1993 vide order dated August 16, 1992. But prior to the completion of the probation period the Managing Committee of the Institution vide order dated August 14, 1993 relieved the employee from the services on the ground that his services were not found satisfactory. The employee assailed the order by filing an appeal before the Rajasthan Non Government Educational Institutions Tribunal Jaipur (for short "the Tribunal"). The Tribunal vide order dated September 24, 2003 allowed the appeal and set aside the order dated August 17, 1993 and directed the Institution to reinstate the employee with all consequential benefits. The Institution in the instant writ petition, has called in question the order dated September 24, 2003 of the Tribunal.

2. It is contended on behalf of the Institution that since the Institution removed the employee without any stigma therefore no enquiry was required to be conducted against the employee. According to the Institution the services of the

employee were terminated only because of unsatisfactory work.

3. I have pondered over the submissions and scanned the material on record.

4. Before proceeding further it will be useful to take stock of Rule 30 of the Rajasthan Non Government Educational Institutions (Recognition, Grant-in-aid and Service Conditions etc.) Rules, 1993 (for short "1993 Rules"), which provides thus:--

"30. Period of Probation (a) All persons appointed in the Institution shall be placed on probation for a period of one year.

(b) If it appears to the Managing Committee, at any time, during or at the end of the period of probation, that the employee has not made sufficient use of his opportunity or has failed to give satisfaction, the Managing Committee may discharge or terminate him from service with prior approval of the authority competent to approve the appointment (Appendix IX).

Provided that the Managing Committee may, if it so thinks fit in any case, extent the period of probation not exceeding one year."

5. It appears that being the aided institution the petitioner Institution wrote a letter dated August 13, 1993 (Annexure-4) to the Deputy Director Education seeking approval in view of Rule 30 of 1993 Rules to dispense with the services of the employee. The Deputy Director instead of according approval wrote to the Institution to follow the procedure provided by Rule 39(2) of the 1993 Rules. Thereafter the Institution again wrote a letter dated September 8, 1993 to the Deputy Director, who gave reply vide letter dated September 5, 1993 declining to accord sanction.

6. Their Lordships of the Supreme Court in Pavanendra Narayan Verma Vs. Sanjay Gandhi P.G.I. of Medical Sciences and anr, indicated that termination of probation service on the ground that his work and conduct was not found to be satisfactory", could not be termed as stigmatic and enquiry prior to the order was not necessary.

7. But where the procedure is laid down in the Rules 30 and 39(2) of 1993 Rules, the Institution has to follow the procedure. In the instant case the Institution overstepped the procedure and therefore committed illegality in terminating the services of the employee.

8. For these reasons, I find no illegality in the impugned order of the Tribunal and the writ petition stands dismissed without any order as to costs.