
(2006) 01 DEL CK 0062
In the Delhi High Court
Case No : LPA No. 691 of 2004

Asha Arora

APPELLANT

Vs

Lt. Governor of Delhi and Others

RESPONDENT

Date of Decision : 20-01-2006

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2006) 127 DLT 321

Hon'ble Judges : Markandeya Katju, C.J.; Madan B. Lokur, J

Bench : Division Bench

Advocate : Vineet Bhagat, for the Appellant; Hima Kohli, for the Respondent

Final Decision : Dismissed

Judgement

Markandeya Katju, C.J.—This writ appeal has been filed against the impugned judgment of the learned Single Judge of this Court dated 26th April, 2004

2. Heard learned counsel for the parties and perused the records.

3. The facts in detail have been set out in the judgment of the learned Single Judge and hence we are not repeating the same, except where necessary.

4. The appellant was appointed in Manav Sthali School, Senior School, Rajinder Nagar, New Delhi with effect from 17th July, 1984. She alleged that her daughter met with an accident on 16th October, 2000 and she applied for leave which was admittedly not granted. She received a letter dated 13th December, 2000 from the School calling upon her to join duties within two days, failing which, the School would make alternative arrangement. The petitioner/appellant applied for extension of leave till 31st March, 2001. It is alleged that on 14th December, 2000, she went to the School where she met the Principal. On 20th January, 2001, the School informed the petitioner that leave was not sanctioned to her. She then received a letter dated 28th March, 2001 to the effect that since she was absent without leave, the School had made an alternative arrangement. Aggrieved, she filed the writ petition.

5. A counter-affidavit was filed in the writ petition in which it was alleged that the petitioner had abandoned her job with the School, and the School had made alternative arrangement in the interest of the students.

6. It is alleged in the counter-affidavit that the respondent is a Society registered under the Societies Registration Act and is an unaided and unrecognized School. It is denied that the petitioner was working as Senior Teacher (Hindi) in the School since 1984. It is stated in the counter-affidavit that since the petitioner/appellant was absent without leave, the respondent/School was forced to make an alternative arrangement in her place as the academic session was about to end and the studies of the students of the School were suffering a lot in the absence of the Teacher. In spite of written letters to the petitioner, she did not join her duties which compelled the School to make an alternative arrangement.

7. It is alleged that the provisions of Delhi School Education Act are not applicable as it is not a recognized School.

8. It is stated that the School treated the petitioner compassionately in the past but the fact is that she always misused the privilege and continued to extend her medical leave in the past and on another occasion prolonged her stay at New Zealand taking it for granted that leave would be granted to her. It is denied that the School was interested in victimizing the petitioner.

9. On the facts of the case, we find no merit in this appeal. It is evident that the petitioner/appellant had acted in a most irresponsible manner by being absent without leave. After all, the interest of the children of the School is of paramount importance and such kind of behavior cannot be allowed if a School is to run properly.

10. We fully agree with the reasoning given by the learned Single Judge. Apart from what is stated therein, we are of the opinion that this is not a fit case for exercise of our discretion under Article 226 of the Constitution. Writ jurisdiction is discretionary and it is certainly not meant to be exercised in favor of a person like the petitioner who leaves her students in the lurch on some pretext. 11. Accordingly, this appeal is dismissed.