

(2024) 09 TEL CK 1117
In the Telangana High Court
Case No : Writ Petition No.2776 Of 2013

Chairman Kendriya Vidyalaya Sangathan	APPELLANT
Vs	
K. Ranganath	RESPONDENT

Date of Decision : 19-09-2024

Acts Referred:

Indian Penal Code, 1860 — Section 34, 201, 302

Citation : (2024) 09 TEL CK 1117

Hon'ble Judges : K.Surender, J;Anil Kumar Jukanti, J

Bench : Division Bench

Advocate : D.Bhaskar Reddy, K.Neelakanteswara Rao, J.Kusumavathi, D.Arun Kumar

Final Decision : Dismissed

Judgement

Laxmi Narayana Alishetty, J

1. This writ petition is filed challenging the order dated 23.11.2012 passed by the Central Administrative Tribunal, Hyderabad Bench, Hyderabad (for short, 'Tribunal').

2. Heard Sri Ajay Kumar Kulkarni learned standing counsel for petitioners and Ms. M.S.Aishwarya, learned counsel representing Sri K.R.K.V.Prasad, learned counsel for respondent on record.

3. The facts of the case in nutshell are that respondent was working as Music Teacher at Kendriya Vidyalaya-1, Air force Academy Dundigal, Hyderabad. While so, complaints have been received from girl students and parents that respondent was misbehaving in objectional manner with the students in classrooms. Considering seriousness of the allegations, 4th

petitioner placed the respondent under suspension on 09.03.2009 and on review, extended the suspension for further period on 17.07.2009. Petitioner-institution constituted an inquiry consisting of four lady teachers and one male teacher of

the 5th petitioner-institution to inquire into the complaints made against the respondent. The Committee in its preliminary report dated 05.03.2009 found that the contents of complaints as prima facie correct and on the said preliminary report, 4th petitioner vide order dated 09.03.2009 ordered summary enquiry by a Committee consisting of Educational Officer, KVS, Hyderabad as its Convenor and the Principal, K.V.Picket and the Post Graduate Teacher, Air Force Academy KV No.1 as its members. The respondent appeared in the said enquiry. The Committee conducted summary enquiry on 21.04.2009 and submitted its report on 07.05.2009. In the said report, the Committee prima facie found that the respondent was guilty of moral turpitude involving in immoral sexual behaviour with girl students of the said school. Basing on the said report and material on record, the 3rd petitioner decided to proceed against the respondent in terms of Article 81(B) of the Education Code of Kendriya Vidyalaya (for short, 'Education Code') and a Memorandum was issued accordingly on 06.08.2009. The respondent submitted representation on

07.09.2009 to the show-cause notice and the competent authority, on due consideration of representation and material on record, terminated the respondent from services vide order dated 30.11.2009 in terms of Article 81(B) of the Education Code.

4. Aggrieved by the termination order dated 30.11.2009, respondent preferred an appeal on 19.12.2009 before the 2nd

respondent and also approached the Tribunal by filing O.A.No.1111 of 2009 and the said O.A. was disposed of with direction to the appellate authority to dispose of the appeal filed by the respondent by duly granting personal hearing. Accordingly, the appellate authority granted personal hearing and respondent appeared before the appellate authority on 06.04.2010. The appellate authority vide order dated 03.05.2010 rejected the appeal, confirming the order of the 3rd respondent dated 30.11.2009.

5. The respondent herein filed O.A.No.521 of 2010 challenging the order dated 03.05.2010 passed by the appellate authority and the Tribunal vide its order dated 23.11.2012 disposed of the O.A.No.521 of 2010 by directing the petitioners herein to take back the respondent into service with the observation that the period from the date of removal till the date of taking back has to be treated as dies-non and the respondent shall not be entitled for any emoluments for that period. Aggrieved by the order dated 23.11.2012, the petitioner-institution filed the present writ petition.

6. Learned counsel for petitioners contended that Tribunal committed serious error in holding that the acts of misconduct of the respondent, as complained by the girl students, do not amount to sexual misbehaviour and it is not a case of termination of service of the respondent under Article 81 (B) of the Education Code, though the acts may attract punishment. He further contended that Article 81(B) of the Education Code empowers the competent authority to terminate the

services of an employee for the guilt of immoral behaviour towards the students. He also referred to Article 81(B) of the Education Code elaborately and contended that the procedure prescribed for holding an enquiry for imposing major penalty in accordance with the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (for short, 'the Rules,1965') is applicable to the employees of Kendriya Vidyalaya Sangathan and the same is dispensed with provided that Commissioner is of the opinion that it is not expedient to hold a regular enquiry on account of embarrassment to student or his guardians or such other practical difficulties.

7. He further contended that allegations made against the respondent are of serious in nature; that the Committee, comprising of four lady teachers and one male teacher constituted to inquire into the contents of the complaints of the girl students, in its report categorically found the contents of complaints as prima facie correct. Therefore, the Commissioner invoked Article 81(B) of the Education Code and has rightly ordered for summary inquiry by duly constituted a committee of senior officials and the said Committee after due inquiry, submitted its report and found respondent prima facie guilty of moral turpitude involving immoral sexual behaviour towards girl students of the school. Therefore, summary enquiry conducted under Article 81(B) of the Education Code is proper and there is no irregularity and in fact, Article 81(B) stipulates that as far as possible a summary inquiry being conducted in case of any complaint of immoral behaviour by a teacher towards the students. He further contended that Tribunal committed error in passing the impugned order on sympathetic grounds without considering the seriousness of the complaints made against the respondent and the Tribunal also came to erroneous conclusion that it is not a case where applicant has to be terminated under Article 81(B) of the Education Code and prayed this Court to set aside the impugned order and pass necessary orders.

8. To support his contention, learned counsel for petitioners relied upon the judgment of Hon'ble Apex Court in Commissioner, K.V.Sangathan and others vs. Rathin Pal. (Criminal Appeal arising out of SLP (C) No.4627 of 2008).

9. Per contra, learned counsel for the respondent had contended that the Tribunal by taking into consideration the facts and circumstances of the case had come to right conclusion that the case of the respondent does not fall within the ambit of Article 81(B) of the Education Code for ordering termination. It is further contended that as per Article 81(B), the Commissioner is required to pass speaking order, however, no such order has been passed in the present case and further, the Committee constituted to conduct summary inquiry has not investigated into the alleged immoral behaviour on the respondent. Learned counsel for respondent further contended that respondent rendered 22 years of service and his services were terminated by the appellant-institution without any terminal benefits except three months notice salary and thereby the respondent lost about 13 years of service and further he could not join in any employment after termination. It is further contended that in the absence of any full-fledged

disciplinary inquiry, the report given by the committee basing

on summary inquiry cannot be considered and the observations of the Committee are not based on any evidence and material and that the expression 'sexual misbehaviour' is used only to cause prejudice to the respondent.

10. Learned counsel for respondent has relied upon the judgment of Hon'ble Apex Court in *Surjit Ghosh vs. Chairman & Managing Director, United Commercial Bank and others*(1995) 2 SCC 474 and contended that on account of deprivation of remedy of appeal which is a substantive right, the order of appeal dated 03.05.2010 is null and void in law and thereby the initial order of termination is also non-est in the eye of law and finally, prayed to dismiss the writ petition.

11. Perusal of the termination order dated 30.11.2009 shows that Commissioner has recorded reasons for summary inquiry and exercised the powers under Article 81(B) of Education Code. The Commissioner further observed that it is not expedient to hold a regular enquiry under the Rules, 1965 as it would cause serious embarrassment to the girl students or their guardians and further observed that holding of regular enquiry is not expedient because of the tender age of the girl students as their safety and security have to be protected by preventing their exposure to the tardy process of cross-examination in the enquiry.

12. A teacher is supposed to nurture the talent of the students and guide them academically as well as morally since the young students are future of the nation. There is no necessity or purpose for the respondent to make the girl students to sit on his lap and also touching them inappropriately. One of the girl students specifically stated that the teacher made her to sit on his lap and touched on her stomach, chest, etc., which is highly inappropriate and objectionable. Further, commenting the girl and boy students when they were walking together as wife and husband is objectionable on the part of the respondent and it also amounts to polluting the minds of the young students. Despite these acts of the respondent, the Tribunal has come to erroneous, improper conclusion that the acts of the respondent do not amount to sexual misbehaviour and only be termed as abnormal behaviour. This Court is unable to agree with the observations of the Tribunal.

13. It is further relevant to note that in case of serious allegations of sexual misbehaviour, passing an order on sympathetic grounds by the Tribunal is improper and unsustainable. It is also relevant to note that except alleging that no proper enquiry was conducted, no material or evidence is placed by the respondent to disprove the allegations levelled against him.

14. The facts and circumstances in *Surjit Ghosh (supra)*, relied upon by the learned counsel for respondent, and the facts in the present case are different and therefore, the same has no application to the present case.

15. In considered opinion of this Court, the observation of the Tribunal that it is not a case where the respondent has to be terminated under Article 81(B) of the Education Code, is erroneous and contrary to the material placed on record.

16. In the light of above discussion, the impugned order dated 23.11.2023 in O.A.No.521 of 2010 is set aside. However, considering the length of service of 22 years rendered by the respondent, respondent may make application for compassionate allowance, if rules and regulations of the petitioner-institution permit the same and on such application being filed, the petitioner-institution shall consider the same and pass necessary orders expeditiously.

17. Writ Petition is accordingly allowed. There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed.