

(1996) 08 AHC CK 0080

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 2880 of 1981

C.N.I.Girls Inter College,Dehradun

APPELLANT

Vs

Manmohini Hudson and others

RESPONDENT

Date of Decision : 14-08-1996

Acts Referred:

Uttar Pradesh High School and Intermediate Colleges (Payment of Salary to Teachers and Other Staff) Act, 1971 — Section 3

Citation : (1996) 08 AHC CK 0080

Hon'ble Judges : A.B.Srivastava, J

Final Decision : Allowed

Judgement

1. By means of this sixteen year old writ petition the petitioner, a defendant before the trial court, has sought quashing of finding of the Civil Judge, Dehradun negating the plea of nonjoinder of necessary party and the order of the District Judge confirming the same in revision.
2. A suit No. 46 of 1979 was filed by the plaintiff respondent no. 1 against the management of the petitioner college claiming that she is a regularly appointed teacher in the said college, which at one stage terminated her services, against which, she filed a suit, which was decreed by means of a compromise between her and the Management; yet the management was not paying salary of the said post. Hence, the relief claimed was of recovery of past salary and direction to pay the same for the future months also.
3. Amongst other pleas, the petitioner contended that the suit was bad for nonjoinder of the State of U.P. through the Regional Inspectress of Girls School, Pauri Garhwal, as the responsibility to pay the salary, under the payment of Salaries Act, 1971, is on the said authority. It is this plea which was negated by the court below.
4. Learned counsel for the petitioner has been heard. Respondent or her counsel did not turn up. Record has been perused.

5. Admittedly, the institution in question is a recognised, aided institution, as such, under the provisions of the U.P. Act No.24 of 1971, payment of salary has to be made by the State Government, on the submission of salary bills by the management. Such being the position, for passing an effective decree, the State through the RIGS is at least a proper, if not necessary, party. The view that the suit is based on compromise and hence RIGS is not a necessary party is erroneous as entitlement to salary will not be because of any compromise, but on the strength of a valid and duly approved appointment. The impugned orders thus deserve to be quashed.

6. The writ petition is allowed. The impugned orders dated 24.10.1980 of Civil Judge II, and dated 22.12.1980 of the District Judge, Dehradun are hereby quashed. The suit is held to suffer from the defect of nonjoinder. The plaintiffrespondent shall be called upon by the trial court to effect necessary amendment to implead the State of U.P. through the R.I.G.S. concerned, within 30 days from the date a certified copy of this order is presented before it.

7. Interim order is recalled. No order as to costs.

(Petition allowed)