

(1988) 03 KAR CK 0040
In the Karnataka High Court
Case No : W.P. No. 2892/1988

Davangere Educational Association

APPELLANT

Vs

D. Ulavappa and Others

RESPONDENT

Date of Decision : 09-03-1988

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115

Constitution of India, 1950 — Article 227

Karnataka Private Educational Institutions (Discipline and Control) Act, 1975 — Section 10

Citation : (1988) 1 KarLJ 308

Hon'ble Judges : M. P. Chandrakantharaj Urs, J

Judgement

1. The short question that falls for determination in this writ petition is whether the Educational Appellate Tribunal at Chitradurga, erred in law in reducing the punishment of dismissal inflicted on the respondent D. Ulavappa or Ulavanna.

2. The facts may be stated briefly as follows: Ulavanna which is the correct name of respondent-1 was working as Head Master of the Middle School run by Davanagere Educational Association which runs what is known as Smt. Sarvamangalamma Maganoor Basappa Proudha Shala and Prathamika Shala. The said institution is a private educational institution. On complaints filed by all the teachers and peons on 21-3-1973 and 22-8-1971 (1973?), a preliminary enquiry was held by the management of the petitioner institution and the written explanation of the Head Master Ulavanna was called for. Thereafter regular enquiry was ordered by the Management against the respondent-Ulavanna and he was served with specific charges on 27-12-1973 along with Statement of allegations. The said Ulavanna furnished his detailed reply to the said charges on 10-1-1974. Thereafter an enquiry committee was constituted consisting of three members which include a member of the department of education as required by the Grant-in-aid Code. On completion of the enquiry, the enquiry committee submitted its findings on the charges framed with reasons in support of the findings. The findings were accepted by the management and by a resolution

dated 29-1-1979 an order of dismissal was passed against the respondent and the same was communicated to him. Aggrieved by the same, he preferred an appeal under Section 8 of the Karnataka Private Educational Institution (Discipline and Control) Act, 1975 (hereinafter referred to as "the Act").

3. Ulavanna who was the appellant before the Tribunal, inter-alia contended that the enquiry initiated was not legal and proper and therefore the order of dismissal was liable to be set aside. He also contended that the punishment imposed on the appellant was nor justified and the same was injurious, harsh and severe. The Tribunal after appreciating the evidence led before it, came to the conclusion that the enquiry was proper and was in accordance with law. The respondent had adequate opportunity. It also held that the impugned order of dismissal was liable to be set aside and lesser punishment imposed. The reason for the latter conclusion is to be found in para 11 of the Judgment and order challenged in this writ petition.

4. It is to be seen that the enquiry committee found the said Head Master Ulavanna guilty of certain charges like the subject of complaints made by the staff members and peons. But it did not find him guilty of any act of corruption. It did not recommend punishment of dismissal. But the management of the institution which accepted the findings, disregarded the nature of punishment recommended by the enquiry committee and substituted its own decision of dismiss him from the post of Head Master.

5. The Tribunal has reasoned that he was not held to be incompetent to teach and it was never the subject matter of the charge. Therefore, even though the Committee found him not suitable to be the Head Master, the management had no authority to remove from the post of Assistant Master in the Middle School. For that reason the Tribunal set aside the punishment and directed reinstatement.

6. It cannot be said that there is no judicial consideration of the quantum of punishment commensurate with charges of misconducts alleged. Under Sub-Clause (i) of Clause (c) of sub-section (4) of Section 10 of the Act, the Tribunal has power to set aside the order of dismissal and direct reinstatement of the employee on such terms and conditions including payment of salary and other allowances from the date of dismissal till the date of reinstatement and costs, if any, as it thinks fit or give such other relief to the employee including the award of any lesser punishment in lieu of the punishment imposed as the circumstances of the case may require. Therefore, having regard to the power conferred by the legislature on the Tribunal, if on the facts and circumstances of the case the tribunal exercises its discretion juridically, this court should not interfere with it under its revisional jurisdiction whether under Sec. 115 of C.P.C. or under Article 227.

The petition is misconceived and is rejected.