
(2014) 11 SC CK 0004

In the Supreme Court Of India

Case No : Civil Appeal No. 10384 of 2014 (Arising out of Special Leave Petition (Civil) No. 10099 of 2014)

Defence Research Education Society

APPELLANT

Vs

Neeta Tuteja

RESPONDENT

Date of Decision : 18-11-2014

Acts Referred:

Citation : (2015) 1 SCT 18

Hon'ble Judges : Kurian Joseph, J; Anil R. Dave, J

Bench : Division Bench

Advocate : Balasubramanian, K.V. Jagdishvaran and G. Indira, Advocates for the Appellant; Ravindra S. Garia, Advocates for the Respondent

Final Decision : Allowed

Judgement

Anil R. Dave, J.

Leave granted.

1. At the request of the learned Counsel appearing for the parties, the appeal was heard on the same day.

2. The Appellant is a registered education society, which has challenged the validity of the judgment dated 21st February, 2014 delivered in Writ Petition (M/ S) No. 1492 of 2009 by the High Court of Uttarakhand at Nainital.

3. The facts giving rise to the present litigation in a nutshell are as under:

The Appellant is managing a school, whereas the Respondent was working as a Lower Division Clerk in the said school. As the Respondent was consistently irregular in performance of her duties and because of some other misconduct, a show-cause notice calling upon her to show cause as to why her services should not be terminated was served upon her. According to the Appellant, in reply to the said show-cause notice, the Respondent had admitted some of the charges. In the circumstances, service of the Respondent was brought to an end by an

order dated 31st January, 2003. The Respondent had challenged her termination by approaching, the concerned officer under the provisions of the Industrial Disputes Act, 1947. The Labour Court, after considering the facts of the case and evidence led before it, came to the conclusion that the service of the Respondent should not have been terminated without holding any inquiry. The Labour Court, therefore, passed an Award dated 4th July, 2009, whereby the Respondent was ordered to be reinstated in service with full back wages and all other consequential benefits.

4. Being aggrieved by the aforestated Award dated 4th July, 2009, the Appellant had filed the aforestated petition, which has been dismissed by the High Court and therefore, the Appellant has approached this Court by way of this appeal.

5. Upon hearing the learned Counsel appearing for the parties, we find that the Respondent had not performed her duties for considerably long period and therefore, she should not have been awarded back wages. In the circumstances, the learned Counsel appearing for the Appellant was asked whether the Appellant was prepared to reinstate the Respondent without back wages with continuity of service. The learned Counsel for the Appellant, in pursuance of instructions received by him, made a statement that the Appellant is ready and willing to reinstate the Respondent in service without back wages.

6. In view of the aforestated statement and in view of the facts and circumstances of the case, it would be just and proper not to award any back wages to the Respondent.

7. The Appellant is directed to reinstate the Respondent without back wages, but with continuity of service within one week from today. If the Respondent is not reinstated in service within one week from today, she shall be entitled to get her salary after one week from the date of this order. If there is no available vacancy, it would be open to the Appellant to create a supernumerary post so as to give appointment to the Respondent.

8. We also clarify that in view of the above development in the matter, the Appellant shall not hold another inquiry in relation to her past behaviour or misconduct. The Appellant shall also give notional increments to the Respondent, if she is entitled to the same, as per her service conditions.

9. The impugned judgment and order is modified and the appeal is allowed to the above extent with no order as to costs.