

(1980) 10 KAR CK 0012
In the Karnataka High Court
Case No : WP. 4548/79

General Education Centre

APPELLANT

Vs

Education App. Tribunal and Others

RESPONDENT

Date of Decision : 23-10-1980

Acts Referred:

Karnataka Private Educational Institutions (Discipline and Control) Act, 1975 — Section 7

Citation : (1981) 1 KarLJ 327

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

Judgement

1. This matter coming up for preliminary hearing in "B" group after notice to respondents is disposed of by the following order.
2. This writ petition is directed against the validity of the order passed by the 1st respondent Educational Appellate Tribunal, Bangalore, (hereinafter referred to as the tribunal) made in I.A. No. I in M.A. (EAT) No. 22/1978. The main appeal itself is directed against the order of dismissal made against the 2nd respondent by the petitioner-General Education Centre. The 2nd respondent came to be dismissed from his post as Head Master of Sangamesha Vidya Kendra High School, Vijayanagar, Bangalore, on certain charges with reference to which a formal enquiry had preceded.
3. It is necessary to state that proceedings in the main appeal before the 1st respondent-Tribunal have continued even while this writ petition was pending in this court.
4. The petitioner is aggrieved by the impugned order which is an order directing the petitioner who is respondent-1 before the 1st respondent-Tribunal to pay subsistence allowance to the 2nd respondent-appellant before the tribunal for the period between 16-3-1978 and 7-6-1978.
5. It is very unfortunate that the tribunal proceeded to dispose of I.A. No. I made in the appeal proceedings before it without noticing that payment of subsistence

allowance for the relevant period mentioned above was a distinct and separate cause of action against which the 2nd respondent should have approached the tribunal by way of an appeal in accordance with the provisions made in sec. 7 and 8 of the Karnataka Private Educational Institutions (Discipline and Control) Act, 1975 (hereinafter referred to as the Act).

6. Sri Vasantha Kumar, the learned counsel appearing for respondent-2 has fairly conceded this position. Therefore, the impugned order must be held to be without jurisdiction and set aside on that ground. But having regard to the intention of the Act which is to protect the service conditions of the employees in private educational institutions, it is but appropriate that this court should ensure the same in favour of the 2nd respondent.

7. Sri B.B. Mandappa, the learned High Court Government pleader appearing for the 3rd respondent-Deputy Director of Public Instructions, Bangalore South District, Bangalore City, has brought to the notice of the court, on the basis of the record, that the Department did write to the petitioner-Institution to submit the bill for payment of subsistence allowance for a specified period in its communication dated 6-10-1978. It is further submitted that thereafter the institution has not submitted any bill for sanction of the payment. Even in this view of the matter the ultimate liability to pay subsistence allowance is a matter which is required to be decided by the Tribunal after receiving evidence in that behalf and fix the same either on the Institution or on the Education Department in accordance with law. Having regard to the facts of this case, it is appropriate to make the following order.

(1) The impugned order at Exhibit-N is set aside.

(2) The Tribunal is directed to entertain an appeal if filed by the 2nd respondent within two weeks from to-day in respect of his claim for subsistence allowance for the period from 16-3-1978 to 7-6-1978 and dispose of the same in accordance with law after giving adequate opportunity to those who may be respondents in those proceedings. The appeal now pending before the Tribunal (respondent-1) shall also be disposed of expeditiously.

8. In the circumstances of the case, the parties are directed to bear their own costs.