

(1996) 02 SC CK 0268

In the Supreme Court Of India

Case No : Civil Appeal No. 4187 Of 1991

Hindu College and Another

APPELLANT

Vs

Sadhu Ram Saini

RESPONDENT

Date of Decision : 14-02-1996

Acts Referred:

Citation : (1997) 11 SCC 460

Hon'ble Judges : S. C. Agrawal, J;G. T. Nanavati, J

Bench : Division Bench

Final Decision : Allowed

Judgement

S.C. Agrawal and; G.T. Nanavati, JJ.-Sadhu Ram Saini, respondent herein, was employed as Sports Assistant in the Hindu College at Sonapat (hereinafter referred to as "the College") which is affiliated to the Maharishi Dayanand University, Rohtak (hereinafter referred to as "the University"). He was absent from duty without leave from 18-1-1977. By order dated 17-5-1978 his services were terminated. On 29-9-1981 he filed the suit giving rise to this appeal wherein he sought a declaration that the said order dated 17-5-1978 terminating his services was null and void and that he was entitled to his pay and allowances. The said suit was dismissed by the trial court on the ground that it was barred by limitation. The said suit was decreed by the appellate court which accepted the case of the respondent that he came to know about the order dated 17-5-1978 terminating his services on 17-11-1979 and that the suit was within limitation if the period is counted from 17-11-1979. The appellate court held that the order dated 17-5-1978 was passed in violation of the principles of natural justice since the respondent was not afforded a reasonable opportunity before the imposition of the penalty of termination of his services on the ground of his being absent without leave. The appellate court passed a decree declaring that the order dated 17-5-1978, terminating the services of the respondent was null and void and that the respondent was entitled to all benefits. The second appeal filed by the appellants has been dismissed by the High Court by the impugned judgment

dated 5-4-1991. The High Court has affirmed the decree passed by the appellate court. It has rejected the contention urged on behalf of the appellants that the respondent could not be granted the relief of reinstatement in service.

2. We have heard Shri A.K. Goel, the learned counsel appearing for the appellants and the respondent who is present in person.

3. Shri Goel has submitted that the High Court was in error in holding that the relief of reinstatement in service could be granted to the respondent on the view that the case falls within the exception to the rule that a contract of personal service cannot be specifically enforced. The submission is that merely because the college is affiliated to the University does not confer a statutory status on it so as to entitle the respondent to obtain the relief of reinstatement in service. We find merit in this contention of the learned counsel. The college cannot be regarded as a statutory body on the basis of its affiliation to the University and the High Court was in error in holding that the case falls within the exception to the rule that a contract of personal service cannot be specifically enforced. The relief of reinstatement in service could not be given to the respondent in the facts of this case. The respondent was, however, entitled to compensation for loss of pay and allowances due to wrongful termination of his services.

4. Having regard to the facts and circumstances of the case we consider it appropriate to direct that the appellants shall pay to the respondent a consolidated amount of Rs 30,000 by way of compensation for loss of pay and allowances for wrongful termination of his services. The payment of this amount would be in full and final settlement of all the claims of the respondent and he would not be entitled for reinstatement in service. This amount of Rs 30,000 shall be paid within two months. A sum of Rs 3000 has been deposited by the appellants in this Court towards expenses of the respondent in pursuance of the order dated 6-9-1991. It will be open to the respondent to withdraw the said amount of Rs 3000. The appeal is disposed of accordingly.