

(2002) 04 MAD CK 0033

In the Madras High Court

Case No : Appeal Suit No. 72 of 1992

Kamuthi Kshatriya Nadar Uravinmurai and Kshatriya Nadar
Girls Higher Secondary School

APPELLANT

Vs

P. Gomathi

RESPONDENT

Date of Decision : 24-04-2002

Acts Referred:

Limitation Act, 1963 — Article 7, 14

Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 — Section 22

Citation : (2002) 04 MAD CK 0033

Hon'ble Judges : V. Kanagaraj, J

Bench : Single Bench

Advocate : S. Subbiah, for the Appellant; N.A.K. Sarma, for the Respondent

Final Decision : Dismissed

Judgement

1. The above Appeal Suit is directed against the judgment and decree dated 20.3.1991 rendered in O.S.No.38 of 1990 by the Court of

Subordinate Judge, Ramanathapuram at Madurai.

2. Tracing the history of the above appeal suit having come to be preferred by the appellants, it comes to be known that the respondent herein had

filed the suit in O.S.No.38 of 1990 against the appellants for recovery of a sum of Rs.52,450/= with interest at 9% p.a. from the date of suit till the

date of realisation and for costs on averments such as that she was the Headmistress of the appellant/defendant School from 10.6.1966, which is

now upgraded as a Higher Secondary School; that because of her meritorious service,, she was awarded the State Best Teacher's Award in the

year 1978; that the Management, who had a grouse against plaintiff were giving pinpricks to the plaintiff in the administration of the School and

placed her under suspension on 16.9.1978 on flimsy grounds and charges were also framed and upon conducting an ex-parte enquiry, they issued a show-cause notice to terminate her services.

3. The plaintiff would further submit that the School Management also sought the permission of the Chief Educational Officer to terminate the

plaintiff u/s 22 of the Tamil Nadu Private Schools Regulations, who refused to give such a permission to the Management; that aggrieved, the

Management preferred an appeal to the Joint Director of School Education, who remanded the matter to the Chief Educational Officer for fresh

consideration; that even on remand, the Chief Educational Officer refused to give the permission sought for by the School Management and again

the Management preferred an appeal to the Joint Director of School Education, who granted the permission to the Management to terminate the

services of the plaintiff and accordingly, the Secretary of the School, terminated the services of the plaintiff w.e.f. 25.1.1980; that against the said

order of termination, the plaintiff had preferred an appeal before the Educational Tribunal-cum-the Court of Subordinate Judge, Ramnad at

Madurai in C.M.A.No.29 of 1980 and the said Tribunal by its order dated 26.8.1981 had set aside the termination order further ordering

reinstatement of the plaintiff; that aggrieved against the said findings of the Sub Court, Ramnad at Madurai, the Management filed W.P.No.9281 of

1982 and the said writ petition also having come to be dismissed, thereby upholding the findings of the Sub Court, Ramnad, the Management, after

adopting dilatory tactics, reinstated the plaintiff on 8.11.1983 and after reinstatement, the plaintiff continued to act as Headmistress and was asked

to retire on 30.6.1986, even though she could work as Headmistress throughout the academic year.

4. The plaintiff would further submit that in the meanwhile, she filed a writ petition in W.P.No.3514 of 1983 on the file of this Court against the

school Management, the Joint Director of School Education and the State of Tamil Nadu praying the Court to direct the said parties to pay the

arrears of salary due to the plaintiff, since she should be considered as having been in service irrespective of the dismissal order; that during the

pendency of the said writ petition, the Director of School Education had agreed to pay on behalf of the Government the amount payable by him as

per his proceedings on 2.12.1983 and therefore this Court by its order dated 2.7.1987 had directed the School Management to prepare the Bill

and sent it to the Government for payment of the apportioned sum payable by the Government and with a long delay, the Management sent the Bill

to the Government and the Government have also paid a sum of Rs.6,493/= while the balance amount is payable by the School Management; that

the High Court by its order dated 1.11.1989 had ultimately dismissed the W.P.No.3514 of 1983 with the observation: ""after the filing of the writ

petition, the petitioner has been given partial relief by the Government and now the grievance is only against the first respondent in the writ petition.

That grievance has to be worked out in the civil suit. Accordingly, subject to the right of the petitioner to work out her remedy in the civil Court,

this writ petition is dismissed. As and when the petitioner approaches the civil Court, it will take into account the pendency of the writ petition, if

there is any petition for condoning the delay in moving the civil Court.

5. The plaintiff would further submit that retaining the salary which is due to her by the defendants will amount to keeping her money in trust for her

and the defendants are estopped from denying their liability and or pleading any bar under the law of limitation and therefore the defendants are

liable to pay a sum of Rs.52,450/= to the plaintiff as damages for wrongful dismissal.

6. In the written statement filed by the first defendant, besides generally denying all the allegations of the plaint, they would submit that the suit as

framed against them is not sustainable; that this defendant is an unnecessary party to the suit, since even according to the complaint, no jural

relationship exists between this defendant and the plaintiff to justify the claim for any relief as against this defendant; that the suit is hopelessly time

barred; that this defendant was not a party to any of the proceedings referred to in the plaint and therefore they are unable to subscribe to the

correctness of the several allegations; that there is no cause of action to file the suit against this defendant; that the claim of the plaintiff that the

defendants are estopped from pleading bar on the law of limitation is untenable since there could be no estoppel against the statute; that it is clear

from the allegations of the plaint that the plaintiff contributes to the facts alleged to have given rise to the filing of the suit and therefore the plaintiff

cannot claim any amount against the defendants; that the plaintiff never cared to report to duty or carry out her functions in the School and in the

circumstances cannot take advantage of her own laches; that the suit as framed against this defendant is not sustainable and further advising the

plaintiff to implead all the members of the School Committee, this defendant would pray to dismiss the suit with costs.

7. The second defendant would file a written statement, thereby besides generally denying the allegations of the plaint and further submitting the

dates and events, they would submit that the plaintiff is not entitled to the relief claimed in the suit; that thought he Joint Director of school

Education directed that the entire period from 16.9.1978 to 25.1.1980 be treated as leave, to which the plaintiff would be eligible, the said order

was set aside by the Tribunal and the Tribunal only directed that the period of suspension shall be treated according to law; that the plaintiff did not

challenge the said part of the order of the Tribunal and in the circumstances, cannot claim any relief on the basis of directions issued by the Joint

Director of School Education; that the Tribunal has not directed the payment of back-wages to the plaintiff; that in W.P.No.81 of 1981 also, the

High Court has not ordered any payment of back-wages and therefore, the plaintiff is not entitled to the relief of back-wages or alleged arrears of

salary; that the plaintiff is not entitled to seek enforcement of the orders of the Joint Director of School Education in these proceedings and the said

order has not become final and any payment made by the Department pursuant to the said order will not bind this defendant; that the suit claim is

barred by limitation and the alleged estoppel against the bar of limitation is untenable since there could be no estoppel against the statute; that the

plaintiff voluntarily stayed away from joining the duty and it is not her case that she was prevented by this defendant from joining the duty and this

defendant only intimated the plaintiff its intention to take further proceedings in higher Courts and in the absence of any order of stay or direction,

the plaintiff could have very well reported to duty and immediately protested if she was prevented from discharging her duties.

8. This defendant would further submit that the plaintiff was allowed to remain in possession of the building belonging to the Management given at a

concessional rate of rent and if really the Management had any animus against the plaintiff, they would not have permitted her residence therein;

that the plaintiff has not also taken into account the market value of the rent the building could fetch while computing the damages; that this

defendant is always ready and willing to pay any moneys paid by the Government towards salary and allowances to the teachers and it is with this

intent that plaintiff applied with the orders of the Director of School Education in submitting the necessary forms to enable the plaintiff to receive the

moneys the Government undertook to pay. Further submitting that the school is run as a public institution having been found and established by the

members of the religious denomination of Kshatriya Nadars of Kamuthi and there is no personal or private interest of any person involved in the

management of the School and on such grounds, this defendant would pray to dismiss the suit with costs.

9. The second defendant would file an additional written statement thereby submitting that the Director of School Education cannot unilaterally fix

the amount payable by the Government and the said proceeding is not at all binding on this defendant; that the preparation of the bill in obedience

to the order of the High Court will not fasten any liability on the School management to pay any sum to the plaintiff and this defendant did not agree

for any apportionment of the liability with the Department; that the Department alone is liable to pay the amount if any payable to the plaintiff since

this defendant is an aided institution and the teaching grant is entirely borne by the Government and hence the Government is a necessary party to

the present proceedings, therefore, the suit is liable to be dismissed for non-joinder of necessary parties; that Section 14 of the Limitation Act is not

applicable to this case since the parties to the present suit and the writ proceedings are not the same and hence the exclusion of time claimed under

the said provision is not available to the plaintiff; that even assuming but not admitting that section 14 of the Limitation Act is attracted and the

period between institution and termination of writ proceedings is taken into consideration in computing the period of limitation, the suit claim is

hopelessly time barred since Section 14 simply permits the deduction of the period during the pendency of the proceedings in a wrong forum and

the same does not suspend the running of time; that the institution of the writ proceedings to recover the arrears of wages from this defendant is

neither acted with due diligence nor in good faith; that Section 14 of the Limitation Act is applicable only to proceedings dealt with under the CPC

in a Court exercising General civil jurisdiction and not to writ proceedings; that a portion of the suit claim is not a matter in issue in the writ

proceedings and the plaintiff is not entitled to invoke the provisions of the Limitation Act; that the plaintiff has not come forward with necessary

application for the condonation of delay, satisfactorily explaining the cause for not instituting the suit within the time. On such grounds, this

defendant would pray to dismiss the suit with costs.

10. Based on the above pleadings, the Court below would frame the following issues:

1. Whether the plaintiff is entitled to the arrears of salary as prayed for in the suit?
2. Whether the suit is instituted within the limitation period?
3. Whether the suit, as instituted, is maintainable?
4. Whether the first defendant is a necessary party to the suit?
5. What relief, if any, the plaintiff is entitled to?

Thereupon, the Court below would conduct a trial, wherein on behalf of the plaintiff, the plaintiff besides examining herself as P.W.1 for oral

evidence, would also examine one Rajagopal as P.W.2 and would mark 14 documents as Exs.A.1 to A.14. On behalf of the defendants, though

no witness was examined for oral evidence, they would mark the copy of the petition in W.P.No.3514 of 1983 on the file of the High Court,

Madras as Ex.B.1.

11. The Court below, in consideration of the above oral and documentary evidence, would ultimately decree the suit as prayed for. Aggrieved, the

defendants in the suit have come forward to prefer the above Appeal Suit on certain grounds such as (i) that the Court below ought to have seen

that the suit claim is hopelessly barred by limitation; (ii) that the Court below ought to have seen that any observation made by the High Court in a

proceeding under Article 226 of the Constitution of India cannot save the limitation; (iii) that the Court below ought to have seen that in any event,

the first appellant was not a party to the writ petition and the observations of the High Court cannot save the limitation as against the first appellant;

(iv) that the Court below erred in assuming that the proceedings of the Director of School Education in Ex.A.8 has become final and has failed to

see that even in the written statement, it was pleaded that the said proceedings

have not become final; (v) that the Court below ought to have seen that there is no order directing the reinstatement of the plaintiff with back-wages by any competent Court and thus the plaintiff is not entitled to back-wages as a matter of right; (vi) that the Court below ought to have seen that payment of back-wages do not follow as a consequence of an order of reinstatement especially when a direction in this regard was omitted to be made by a competent Court; (vii) that the Court below ought to have seen that the plaintiff was bound to establish that she had not taken any gainful employment during the period for which the back-wages are claimed; (viii) that the Court below ought to have seen that consequent to the order of reinstatement, the plaintiff never exercised her right to function as a Teacher and therefore cannot take advantage of her own laches; (ix) that the Court below ought to have seen that the plaintiff deliberately kept herself out of office and did not take any step to mitigate the damages; (x) that the Court below ought to have seen that the defendants are public institutions and cannot be penalised for the acts or omissions of private individuals and (xi) that the Court below ought to have seen that the first defendant is an unnecessary party to the suit and the Government is a necessary party.

12. During arguments, the learned counsel for the appellants, tracing the facts and circumstances of the case, would submit that the defendants are the appellants and the plaintiff was the Headmistress of the second defendant school from 10.6.1966 and she was awarded the State Best Teacher's Award in the year 1978; that on 16.9.1978, the plaintiff was placed under suspension by the administration of the school and the Secretary of the School, terminated the services of the plaintiff with effects from 25.1.1980; that aggrieved against her termination, the plaintiff had preferred an appeal in Civil Miscellaneous Appeal No.29 of 1980 before the Educational Tribunal-cum-the Court of Subordinate Judge, Ramnad at Madurai wherein the said Tribunal while allowing the said appeal with costs, set aside the termination order and also directed the Management to reinstate the plaintiff in service immediately further remarking that the period of suspension is to be treated by the respondent in accordance with law, but, the Tribunal has not passed any order regarding the back-wages; that the Writ petition No.9281 of 1982 filed by the Management

against the said decision of the Educational Tribunal was also dismissed. The learned counsel further stating that when the petitioner was not

declared eligible for back-wages, the plaintiff is not entitled to get the relief sought for, would cite the following judgments:

(i) Chairman, Governing Council Anjuman Arts, Commerce and Science and Others Vs. Sayyed Mohammad Shafi,

(ii) (2001) 1 SCC 73 (STATE BANK OF INDIA vs. RAMCHANDRA DUBEY AND OTHERS)

(iii) 1997 3 LW 359 (THE SECRETARY, ULAGAPPAR HIGHER SECONDARY SCHOOL, RAMACHANDRAPURAM,

PUDUKKOTTAI DISTRICT vs. JOINT DIRECTOR OF SCHOOL EDUCATION & ANOTHER)

13. So far as the first judgment cited above is concerned, it is a case wherein the services of the respondent were terminated by the appellant and

such a termination order was set aside, without an order regarding the back-wages and the respondent had moved an execution application, which

was dismissed upto the High Court and pending the SLP before the Apex Court, an enquiry regarding 'whether the respondent was gainfully

employed" was conducted and found that he was gainfully employed. In such circumstances, the Honourable Apex Court has held :

It is contended by the counsel for the respondent that this appeal has become infructuous. We cannot conclude on that premise since the

respondent is claiming back wages. There should be a finding in that behalf. Accordingly, we held that the respondent is not entitled to back

wages. As far as the reinstatement is concerned, it is not canvassed by the learned counsel for the appellant that he is not entitled to reinstatement

due to the fact that the order of dismissal was set aside and had become final.

14. In the second judgment cited above, the Honourable Apex Court has held:

The Labour Court's award directing reinstatement from the date of termination but remaining silent on the question of back-wages, held, cannot

be presumed to have impliedly granted back-wages - Relief claimed but not granted, held, should be deemed to have been denied.

15. So far as the third judgment cited above is concerned, it is a case wherein the services of four teachers were terminated by the school

management after obtaining approval from the Chief Educational Officer and the

appeals preferred by the said four teachers were allowed by the appellate authority. Thereafter, the Management filed writ petitions challenging the decision of the appellate authority wherein it was ordered that the proper remedy was to file appeals u/s 24 of the Tamil Nadu Recognised Private Schools (Regulation) Act and in the appeals filed, when the Management sought dispensation of the deposit of arrears of salary of the four teachers, the Tribunal while dismissing such claim of the Management, had directed them to pay the arrears of salary. When such a decision of the Tribunal was challenged by way of revision petition, a learned single Judge of this Court has held:

Even if no appeal is filed before the Tribunal, and the teachers are reinstated, the obligation is only on the part of the Government to pay salary. If that be so, there cannot be any change when a stay is moved, and the Act provided for deposit of arrears of salary. The obligation is only on the State and, therefore, the petitioner was entitled to compel the State to pay the amount to it. Learned counsel also submitted that even though the Writ Petition has been filed in the year 1996, till date Government has not cared to file any counter. It is further said that Section 44(1) compelling the private school to deposit the amount will apply only to schools which pay salary to the teachers and not to schools which are not paying salary.

16. Citing the above judgments, the learned counsel would exhort that it is the Government and not the school which has to pay the back-wages, even in case of reinstatement of the teacher.

17. Regarding the limitation question, the learned counsel would submit that it was a suit barred by limitation. The learned counsel would not only recite Section 14 of the Limitation Act but also would cite from a judgment reported in 1992 I LW 124 (VASUKI AMMAL vs. R.JOSEPH) wherein it is held by the learned single Judge of this Court:

In respect of the suit for arrears of salary, Article 7 (of the Limitation Act) is applicable to the facts of the case because though the word "damages" has been used in the plaint, in substance the suit is for arrears of salary.

18. Two more judgments would also be cited by the learned counsel for this point. They are:

(i) AIR 1976 Madras 323 (RAMANATHAPURAM MARKET COMMITTEE vs. EAST INDIA CORPORATION LTD., MADURAI)

(ii) 1925 OUDH 369 (RAM PHER vs. AJUDHIA SINGH AND ANOTHER)

19. In the first of the above judgments, a Division Bench of this Court has held:

The object of the statute of limitation is preventive and not creative. It interposes a statutory bar after a certain period and gives a quietus to suits

to enforce an existing right. Such extinguishment of claims by statutory interference resulting in making certain demands stale should be construed

strictly. No doubt, the provisions of the Limitation Act should be interpreted strictly in accordance with the language used, but it is always

necessary that a litigant, who relies upon it, should bring his cause within the four corners of the terms of the statute.

20. In the second judgment cited above, it is held that Section 14 of the Limitation Act excludes time taken in proceedings bona fide in Court

without jurisdiction against the particular defendant.

21. On such arguments, the learned counsel for the appellants would pray to allow the above appeal suit setting aside the judgment and decree

passed by the lower Court.

22. In reply, the learned counsel appearing on behalf of the respondent would submit that the dates of events in this case are crucial; that in the

year 1966 the plaintiff was appointed Headmistress of the school and in 1978 she was awarded the best teacher award in the State; that there was

a change in the management; that on some misunderstanding the new management not only placed her under suspension on 16.9.1978, but without

even conducting an enquiry, terminated her from service; that on 5.1.1979, the Management sought approval from the Chief Educational Officer,

which was not granted; that it was nothing but an act of vendetta committed on the part of the appellant; that the Chief Educational Officer refused

to terminate the respondent, but ultimately since the appeal was allowed upholding the termination order dated 4.2.1980 she filed C.M.A.No.29 of

1980 before the Educational Tribunal which allowed the appeal setting aside the order of termination on 26.8.1981; that the school management,

filed W.P.No.9281 of 1981 but on 14.12.1982 the writ petition was dismissed and the Writ Appeal preferred by the School was also dismissed

on 7.2.1983 as a result of which on 8.11.1983 the respondent was reinstated;

that in the meantime she filed W.P.No.3514 of 1983 praying to issue a Writ of Mandamus directing the respondents to pay the petitioner a sum of Rs.64,000/= towards her arrears of salary pursuant to the order in C.M.A.No.29 of 1980, dated 26.8.1981 and since during the pendency of the said writ petition, the plaintiff was given partial relief by the Government, this Court while dismissing the writ petition, has ordered that subject to the right of the petitioner to work out her remedy in the civil Court, this writ petition was dismissed further remarking that as and when the petitioner approached the civil Court, it would take into account the pendency of the writ petition, if there was any petition for condoning the delay in moving the civil Court; that as per the directions in the order passed in W.P.No.3514 of 1983 dated 1.11.1989, the respondent filed the suit seeking remedy. At this juncture, the learned counsel would cite a judgment reported in Rameshwarlal Vs. Municipal Council, Tonk and Others, wherein for the question of limitation u/s 14 of the Limitation Act 1963, it has been held by the Honourable Apex Court that:

Normally for application of Section 14, the Court dealing with the matter in the first instance, which is the subject of the issue in the later case, must be found to have lack of jurisdiction or other cause of like nature to entertain the matter. However, since the High Court expressly declined to grant relief relegating the petitioner to a suit in the civil court, the petitioner cannot be left remediless. Accordingly, the time taken in prosecuting the proceedings before the High Court and the Supreme Court, diligently and bona fide, needs to be excluded. The petitioner is permitted to issue notice to the Municipality within four weeks and after expiry thereof, he can file suit within two months.

23. In an identical situation, in Deputy Collector, Northern Sub-Division, Panaji Vs. Comunidade of Bambolim, the Honourable Apex Court has

held:

There was a bona fide mistake on the part of the Govt. pleader in pursuing the remedy under the Portuguese Code. Hence the appellant is entitled to the exclusion of that period.

On such arguments and further submitting that the trial Court is completely justified in decreeing the suit, the learned counsel for the respondent

would pray to dismiss the above appeal suit with costs.

24. In consideration of the pleadings by parties, having regard to the materials placed on record and upon hearing the learned counsel for both, it

comes to be known that the respondent has filed a suit in O.S.No.38 of 1990 against the appellant for recovery of sum of Rs.52,450/- with

interest at 9% per annum for the amount due to her being the arrears of salary from the school management during the period of

suspension/termination which was treated as On Duty.

25. In the above circumstances, the point that arises for consideration in this appeal suit is, `whether the Court below is justified in decreeing the

suit?"

26. On the part of the management two grounds would be strongly pleaded. The first ground is that the suit had not been filed in time and

therefore, the suit was barred by limitation. The other ground is that neither the Tribunal nor the High Court in the writ petition gave any finding to

the effect that the respondent was entitled to the back-wages and therefore, she is not entitled for the same.

27. So far as the first ground is concerned, it is very clear from the order of the learned single Judge of this Court made in W.P.No.3514 of 1993

dated 1.9.1989 that the respondent had not only been directed to workout her remedy in the civil Court so far as her substantial rights are

concerned, but also gave direction to the effect that when she approached the civil Court, it would take into account the pendency of the writ

petition if there was any petition for condoning the delay in moving the civil Court. Therefore, on the part of the appellants, there is no point in

loitering much that the suit was barred by limitation.

28. So far as the second ground is concerned, the learned counsel for the respondent would submit that since that is her substantive right she

should neither claim it in the Tribunal, nor in the High Court in the writ petition and therefore, this Court in W.P.No.3514 of 1983 had rightly

directed to work out such of her substantial right in the civil forum of law and therefore she has instituted the suit before the lower Court.

29. So far as the trial Court is concerned, a careful perusal of the materials connected to the suit proceedings would show that the said Court has

not only traced the facts and circumstances of the case as pleaded by parties, but also based on such pleadings had framed proper issues, as

extracted supra, and conducted a thorough trial in which parties have been permitted to record their evidence both oral and documentary as

extracted supra and in appreciation of the same in the manner required by law and answering the issues one by one had ultimately arrived at the

conclusion not only to answer the limitation question in favour of the respondent/plaintiff, but also in passing a decree as prayed for, directing the

defendants therein to pay the said amount claimed in the suit with interest at 9% per annum.

30. So far as the judgments cited on the part of the appellants are concerned, in the judgment reported in *Chairman, Governing Council Anjuman*

Arts, Commerce and Science and Others Vs. Sayyed Mohammad Shafi, the termination order was set aside and the employee was ordered to be

reinstated without a specific order for back-wages and while the employee was executing the order, naturally, only the decree could be executed

which in the said case was for reinstatement. But, in the case in hand, it is quite contrary. In the present case, the Tribunal gave a direction to file a

suit in the civil Court for claiming arrears of salary (back-wages) and the respondent had filed the suit before the Court below and the same had

been decreed pertaining to the payment of salary (back-wages) to the extent of a sum of Rs.52,450/= with interest at 9% p.a., and this decree is

testified on appeal before this Court in the above appeal suit which has absolutely no nexus or connection with the execution of the order of bare

re-instatement wherein only the order obtained could be executed and nothing more. Therefore, the judgment first cited has absolutely no bearing

or similarity with the facts of the case in hand.

31. So far as the judgment cited on the part of the appellants reported in (2001) 1 SCC 73 is concerned, it is a case of claiming back-wages

wherein the award directs only the re-instatement and this judgment is nothing short of the judgment discussed above (reported in *Chairman,*

Governing Council Anjuman Arts, Commerce and Science and Others Vs. Sayyed Mohammad Shafi, in this character and therefore it is also

equally not applicable since the case in hand is a suit filed before the civil Court on the directions of the Tribunal claiming arrears of salary i.e.

Back-wages meant in the labour parlance and specific decree has been passed by the trial Court allowing the suit and this cannot be compared

with the facts of the other case wherein the claim itself had been only for re-instatement and not for back-wages. It is noteworthy to point out that it

is the Tribunal by a different proceeding ordered re-instatement of the respondent besides giving liberty to claim the arrears of salary before the

civil Court claiming which a regular suit had been filed and on contest, on merit and in accordance with law, the decree has been passed granting

the arrears of salary i.e. the back-wages which cannot be treated on a par with the order passed only for re-instatement without back-wages

which is the subject in the judgment reported in Chairman, Governing Council Anjuman Arts, Commerce and Science and Others Vs. Sayyed

Mohammad Shafi, cited above.

32. The other judgment cited on the part of the appellants reported in 1997-3-Law Weekly 359 is very well in favour of the case of the

respondent wherein the terminated teachers claiming re-instatement had filed appeals and the Management sought for the dispensation of the

deposit of arrears of salary of the Teachers but the claim of the Management had been dismissed by the Tribunal directing them to pay the arrears

of salary. Even here, the Tribunal using its discretionary powers, had ordered so whereas in the case in hand, it is not discretionary but in a pucca

suit which had been heard and decided on merits and in accordance with law, a decree had been passed and therefore none of the above

judgments cited is having the similar set of facts as in the case in hand and hence all the above three judgments cannot be applied to the facts of the

case in hand, even though the third judgment is not supporting the case of the appellants themselves.

33. Neither the appellants pleaded any valid or tangible grounds nor established the same in the above appeal suit in evidence and all those

grounds raised in the appeal suit have been well considered and answered in the suit itself. Whether it is regarding the conclusion arrived at by the

trial Court or the manner in which the said conclusion has been arrived at, there is absolutely no doubt that the the trial Court has fully justified in

passing the decree by delivering the judgment in the manner that it has delivered and there is no reason for this Court to interfere with the well

considered and merited judgment and decree passed by the lower Court thereby decreeing the suit as prayed for. Therefore, the interference of

this Court that is sought to be made into the said judgment and decree dated 20.3.1991 rendered in O.S.No.38 of 1990 is neither necessary, nor

in any manner called for in the circumstances of the case. The point is thus answered accordingly in favour of the respondent and against the

appellants.

In result,

(i)the above Appeal Suit fails and the same is dismissed.

(ii)The judgment and decree dated 20.3.1991 made in O.S.No.38 of 1990 by the Court of Subordinate Judge, Ramanathapuram at Madurai are

hereby confirmed.

(iii)However, in the circumstances of the case, there shall be no order as to costs.