

(2013) 12 GAU CK 0004
In the Gauhati High Court
Case No : WP(C) No. 2773 of 2013

Kendriya Vidyalaya Sangathan

APPELLANT

Vs

M.G. Ansari

RESPONDENT

Date of Decision : 18-12-2013

Acts Referred:

Citation : (2014) 2 GLT 708

Hon'ble Judges : M.R. Pathak, J;K. Sreedhar Rao, J

Bench : Division Bench

Final Decision : Disposed Off

Judgement

K. Sreedhar Rao, J.—The petitioner is Kendriya Vidyalaya Sangathan. The respondent was working as a teacher in the school of the petitioner. The respondent was subjected to departmental inquiry on the allegation of certain acts of misconduct and he was dismissed from service. The respondent challenged the order of dismissal before the Central Administrative Tribunal. The order of dismissal was set aside by the Central Administrative Tribunal and directed reinstatement of the respondent. Against the said order, a writ petition was filed by the Kendriya Vidyalaya Sangathan in WP(C) No. 9763 of 2003. This Court disposed of the writ petition with direction to reinstate the respondent and pay the back wages after due examination. The facts reveal that even, during the pendency of departmental inquiry, the respondent got employed in Prasar Bharti. The respondent rendered service of 10 years and he took voluntary retirement on 31-08-2006 and the respondent is getting pension from Prasar Bharti. The respondent, according to the order of this Court, was reinstated and it is stated that he was not given the salary for the period of absence of about 10 years 8 months. The respondent also did not press for payment of salary for the period of absence. The respondent got superannuated in Kendriya Vidyalaya Sangathan.

2. The respondent, after superannuation, filed an application before the Central Administrative Tribunal challenging the part of the order, which directed that the

respondent is not entitled to salary for the period of absence. The Tribunal held that the respondent is not entitled to wages for the period of absence, but he will be entitled to the pensionary benefits for the period of absence. Against the said order, this petition is filed.

3. Upon hearing the petitioner and the respondent, we find that the period of absence is about 10 years 8 months. The petitioner was also gainfully employed during the period of absence and also getting pension from the said employment in Prasar Bharti. In view of the said facts and materials, the respondent would only be entitled to the pensionary benefits for the period of service rendered excluding the period of absence. Accordingly the pensionary benefits have to be fixed and the salary of the respondent shall also to be fixed.

Accordingly the petition as well as the miscellaneous case is disposed of.