

(1962) 11 KL CK 0027

In the High Court Of Kerala

Case No : Second Appeal No. 10 of 1959

K.V. Abdu, Manager C.M.S. Pottichira School, Oorakam village
and Others

APPELLANT

Vs

Madhavi Appassi Amma

RESPONDENT

Date of Decision : 27-11-1962

Acts Referred:

Education Code — Rule 57

Citation : AIR 1963 Ker 248

Hon'ble Judges : P. Govindan Nair, J

Bench : Single Bench

Advocate : K. Mohammed Naha, for the Appellant; T.S. Venkiteswara Iyer, for the Respondent

Judgement

P. Govindan Nair, J.—"I entertain no doubt on the law or justice of this case" said Best, C. J., in *Beeston v. Collyer* (1827) 4 Bing 309, the Court of Common Pleas, a case in which the facts were similar to those here. I too entertain no doubt regarding the law or justice of this case. But it is urged- by counsel for the appellant that the view that an employee like the plaintiff, a school teacher, is entitled to an year's notice is open to question. I must, therefore, consider this contention.

2. The appellant is the manager" of a school called D. M. S. Pottichira and the respondent, the plaintiff, was associated with the school from 28-11-1122, though there was a break between 17-8-1123 and 6-2-1125. She was dismissed from service on the 30th of March, 1950, and it has been concurrently found by the Courts below that this dismissal is unwarranted. The Courts below have held that at least one year's notice should have been given to the plaintiff and have awarded compensation on, that basis.

3. The Travancore-Cochin High Court in a ruling reported in *Chaldean Syrian Church v. Francis* 1954 KLT 33 : (AIR 1954 TC 104) had occasion to consider a similar question and what their Lordships observed in that judgment is apposite:

"Normally the work of a teacher is to commence at the beginning of the academic year and has to continue at least to the end of that year. Fresh engagement could therefore be expected to be obtained under ordinary circumstances only at the beginning of each year. Such being the nature of the teacher's post held by the plaintiff the duration of the service has to be taken to be one continued from year to year. Such a service cannot be put on a par with the service of domestic servants or of other menials which could be terminated at a month's notice."

Their Lordships awarded the wages for one year holding that at least an year's notice should have been given before the services of the plaintiff in that case were terminated.

4. The concurrent findings of the Courts below that the dismissal of the plaintiff is unwarranted, is not disputed. Reference must be made also to the fact that, employees such as the plaintiff, are governed by a Code, the Education Code, that was in existence in the Cochin State. Rule 57 of that Code provided that,

"No licensed teacher shall be suspended or dismissed from an aided school except for good causes."

The plaintiff, when she was dismissed was fairly young being less than thirty years old and should normally have expected security of service which would have lasted for several years. This has been put a stop to by the appellant without any justifying reason. It is notorious that in this State it is not easy to obtain employment easily. I do not consider this an, immaterial factor in determining the duration of the notice that should be issued for termination of service.

5. The Madras High Court has taken the same view as that taken by the Travancore-Cochin High Court in 1954 KLT 33 : AIR 1954 ker 104 . The decision is reported in Sree Minakshi Mills Ltd. Vs. T.C. Anantarama Ayyar, . I respectfully follow the views expressed in these cases and I am nti-able to agree with "the view taken by the Rangoon High Court in Thein Pe v. J. P. De Souza AIR 1929 Rang 167 that the service of a teacher in a school must be taken to be one from month to month.

6. No other question arises in this appeal and the appeal has to be dismissed. " I do-so and direct the appellant to pay the costs of the respondent.