
(1985) 10 RAJ CK 0001

In the Rajasthan High Court

Case No : Civil Writ Petition No. 2821 of 1984

Miss Mithlesh Kumari

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 30-10-1985

Acts Referred:

Citation : (1985) WLN 357

Hon'ble Judges : A.K. Mathur, J

Bench : Single Bench

Judgement

Ashok Kumar Mathur, J.—The petitioner by the writ petition has challenged the order of termination from service dated 30th December, 1982 Exbt. 8 and has prayed that the order may be quashed and the petitioner should be reinstated with all back wages. The petitioner was appointed on the post of Assistant Teacher in Shri Nehru Bal Mandir, Rajgarh and thereafter she was confirmed on this post vide order dated 29th December, 1971. While working on the post of Assistant Teacher she was served with a charge sheet on 21st November, 1982. The petitioner filed her reply and a regular enquiry was conducted. The enquiry report was submitted and she was served with a show cause notice that why she may not be dismissed from service and thereafter by the order dated December 30, 1982 she was dismissed from service. The petitioner preferred an appeal against the aforesaid termination order and an ad interim stay order was also granted by the Deputy District Education Officer (Female) Churu vide order dated 1st January, 1983. In pursuant of this order she was not taken back in service inspite of stay order. However the departmental appeal filed by the petitioner was accepted and the petitioner's order of termination was set aside by the District Education Officer (Female) Bikaner vide Annexure-I9. The petitioner again reported on duty but she was not permitted. Thereafter she approached the Director Primary and Secondary Education, Bikaner stating that the respondents are not complying with the order and the Director also passed order on 6th October, 1983 that the authorities should comply with the order.

2. Aggrieved against the order Annexure-19 dated 21st January, 1983 the management filed an appeal before the Deputy Director which was accepted by the Deputy Director and the order dated 21st January, 1983 was set aside vide order dated 6th October, 1983 and it was directed that the District Education Officer shall hear the parties and thereafter decide the matter afresh. On remand of this case the District Education Officer heard both the parties, and decided the appeal of the petitioner and held that the petitioner's order of termination is bad and the same was quashed by the order dated 31st January, 1984 vide Exbt. 22. Aggrieved against this the management preferred second appeal before the Deputy Director and the Deputy Director by a cryptic order dated 29th March, 1984 allowed the appeal of the management and the management's order of dismissal of the petitioner was maintained.

3. The petitioner has now challenged the order of termination dated 30th December, 1982 but did not challenge the order dated 29th March, 1984 (Exbt. 23).

4. A detailed reply has been filed by the management denying the grounds raised by the petitioner and it has been submitted that Exbt. 23 has already been set aside by the Director Primary and Secondary Education vide Exbt. R/8 dated 5th June, 1984 being cryptic and non-speaking order.

5. The learned counsel for the respondent has also raised an objection that since the order Annexure-23 has not been challenged and when this order has been set aside by Exbt. R/8 therefore no issue arises in this case for determination.

6. I have heard both the counsel at length, I am of the view that though Exbt. 23 has not been challenged because by this order the termination of the petitioner was maintained by the appellate authority, this order should have been challenged in the proper manner. However she is teacher therefore we need not strictly adhere to her pleadings. There is no gain saying of the fact that the appellate order Exbt. 23 is really absolutely- illegal order because the appellate authority while disposing of the second appeal of the management should have passed proper and considered order instead of cryptic order like present one Mr. Sishodia has pointed out that this order of the appellate authority has been set aside by the Director though it has not been pointed out that how the Director was seized of the matter. But the fact remains that the Director has already set aside the order of dismissal and rightly so because the order is cryptic and non-speaking order. The Director has already directed vide. Exbt. R/8 that the parties should be heard again therefore I need not to quash the order Exbt. 23 over again. The petitioner and the respondents are directed to appear before the Deputy Director (Female) Education Department, Churu, on 18th November, 1985. The Deputy Director (Female) Churu is directed to dispose of the matter within fortnight thereafter.

7. With these observations this writ petition stands disposed of.

8. A copy of this order should be sent immediately to the Deputy Director

(Female) Education Department, Churu.