

(2013) 07 P&H CK 0371
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 5797 of 1991

Prithavi Singh

APPELLANT

Vs

The Director Physical Instructions (School Education) and
Others

RESPONDENT

Date of Decision : 25-07-2013

Acts Referred:

Citation : (2013) 07 P&H CK 0371

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : Hari Om Sharma, for the Appellant; Deepak Girotra, AAG, Haryana for respondent No. 1 and None for respondent Nos. 2 and 3, for the Respondent

Final Decision : Disposed Off

Judgement

K. Kannan, J.—All the three petitioners were teachers of the 3rd respondent-school, which was privately managed aided school of the State. Their grievance was that although the appointments had been made to sanctioned posts and they have served their respective periods of probation without any blemish and they continued in service, the impugned orders were passed as a result of a dispute amongst two rival groups in management of the school and the group, which claimed that it was competent to represent and manage the affairs of the school, jettisoned the services of persons who had been appointed by the previous management. It appears that there had been civil suit pending between the parties of the rival groups in the management and the management that ultimately terminated the services succeeded in their civil suit. The writ petition had been filed to quash the termination orders passed by the 3rd respondent-school society contending that the termination was illegal and against rules. It appears that the petitioners had also sought for redressal from the District Education Officer but the same was dismissed on the ground that no order of termination had been issued in writing and therefore, it was not possible for them to make any intervention.

2. The petitioners have approached the Court under such a situation when an intervention through the State machinery was not possible and the prayer in the writ petition was that they should be reinstated in service after quashing the impugned orders. Learned counsel for the petitioners refers me to an order passed by this Court in C.W.P. No. 4794 of 1988 and two other cases filed at the instance of some other teachers, who claimed salary and pointed to the illegal manner of stoppage of their benefits by setting up a case that the appointments made by rival management which was not competent to represent the society cannot give to them any benefit of employment. This court while passing an order on 12.05.1990 reasoned that so long as the State had approved of the appointments, even the change in management had to ultimately effect the appointments already made and directed that the petitioners would be considered for salary and the same to be worked out and released within a specified time. This, according to him, will squarely govern the case that they should be found entitled to reinstatement as well.

3. I have no difficulty in accepting the position that when initial appointments were valid and they have been approved by the State, even the change of management or any inter se dispute between two rival groups or management could not in any way affect the rights of those teachers who were appointed. If the State did not interfere at appropriate time by a specious stand that no written order had been made and therefore, no intervention was possible, it is neither exigent nor appropriate to direct a reinstatement of all these persons who had been removed from service in the years 1989 and 1990 to secure a reappointment at this point of time.

4. Learned counsel appearing for the State would also point out that over a period of time, the aid granted to the 3rd respondent school society was withdrawn and it has now become a unaided privately managed approved school.

5. The relief, which the petitioners must, however, be granted shall be that for the period during which they were in service and upto the date when they had actually served in the school, they shall be paid the salary by the 3rd respondent-management. It shall be impermissible for the present management to contend that the initial appointment was bad and that they will not be liable for payment of salary. Since the Government itself does not have a control over the school in the manner of grant of sanction and for disbursement of salary, their rights have to be worked out only against the 3rd respondent for the illegal termination that was made and which was perpetrated. I would find that all the petitioners had service in the range of 4 to 5 years at the time their services were terminated and they had been prevented from reporting to duty. The compensation which would be payable for the four years of service and for loss of services in future shall be Rs. 1 lac each and the same shall also be payable with interest @6% from the date of respective orders of termination of services till the date of payment. The remedy shall be worked out by the petitioners only against the 3rd respondent and not against the State i.e. respondent Nos. 1 and 2. With these

observations, the writ petition is disposed of.