
(2008) 01 RAJ CK 0109
In the Rajasthan High Court
Case No : Spl. Appeal Writ No. 130 of 2002

The Managing Committee	Vs	APPELLANT
Smt. Vimal Jangu and Others		RESPONDENT

Date of Decision : 15-01-2008

Acts Referred:

Citation : (2008) 2 WLN 437

Hon'ble Judges : N.P. Gupta, J;D.N. Thanvi, J

Bench : Division Bench

Judgement

N.P. Gupta, J.—Heard learned Counsel for the parties.

2. This appeal has been filed against the order of the learned Single Judge dt. 20.02.2002, dismissing the writ petition.

3. The writ petition was filed to challenge the order of the Rajasthan Non-Government Educational Institutions Tribunal, Jaipur dt. 27.10.2001, whereby, the appeal of the private respondent was allowed and the order/ notice of termination dt. 07.11.2000 was held to be illegal and void and was quashed.

4. For the present purpose, it would suffice to say that the workman was appointed on 20.08.1986 and, after due selection, she was appointed on probation. The employment was continued and it appears that the appellant took a stand that since the strength of students is reducing, there is no need of existing number of teachers and, therefore, it was decided that from the academic session 2000-01, post graduate classes shall be closed and the final year of M.A. shall be closed for the academic session 2002-03 and, accordingly, services of the employee would be treated to come to end on expiry of one year.

5. This order was challenged by filing appeal on various grounds and the learned Tribunal found the order to be bad on various grounds including that admittedly, the requirement of termination has not been complied with. This order was challenged by filing writ petition and the learned Single Judge found that seeking

prior approval to termination of services of an employee is mandatory as held by this Court in Managing Committee, Tagore Vidhya Bhawan and Ors. v. Smt. Neelam Sisodia and Ors. reported in RLW 2000 (2) 1031, which in turn, proceeds on another Supreme Court judgment and, then, the instant case was found to be fully covered by the said judgment and, accordingly, the petitioner was not found entitled for any relief.

6. Assailing the impugned judgment, it was contended that the order/ notice dt. 07.11.2000 was one year's notice and the termination was to take effect after one year, but even before that, the appeal was filed and not only this, the appeal was allowed also before the order of termination was to come into effect, while the appellant had already written to the Director on 06.11.2000 itself to grant the requisite consent. In the circumstances, at the time, the order was passed, it did not violate any provision of Section 18.

7. On the other hand, learned Counsel for the workman submitted that as a matter of fact, the consent was never even prayed for, much less has never been granted even before the order of learned Tribunal, and the services of the employee were come to an end, in the manner, in violation of Section 18 and, therefore, the impugned order does not require any interference.

8. We have heard learned Counsel for the parties and have considered the submissions.

9. Learned Counsel for the appellant was pointedly asked as to whether even as on the date any consent has been received, and the answer was in negative. It is a different story that the consent in writing from the Director was required to be obtained prior to effecting termination, but in the present case, even till the date, no consent has been obtained.

10. Learned Counsel has invited our attention to Annexures 7, 8, 9 and 10 to contend about the appellant having sought the consent.

11. Suffice it to say, that a look at Annexure-7 shows, that thereunder only intimation was sent, that certain classes shall be closed, and the services The of the teachers shall be terminated. In this letter, there is no request ever made to convey any consent as required by Section 18. Then, so far as Annexure-8 is concerned, therein, again permission was sought for closing three subjects in the post graduate level. Likewise is the position of Annexures-9 and 10. In other words, in all of these communications, no consent has been sought from the Director for termination of the services of the present private respondent.

12. Thus, considering from any stand, it is clear that the mandatory requirement of obtaining consent from the Director for termination of the services of the employee has not been complied, that being so, the impugned order cannot be said to be suffering from any error, and does not require any interference by this Court.

13. The appeal thus, has no force, and is dismissed. The parties shall bear their

own costs.