

Rajendra Prashad

Vs

Kalthan Pathshala and Others

Civil Appeal No. 5891 of 1983

(O. Chinnappa Reddy, E. S. Venkataramiah JJ)

26.09.1986

ORDER

1. The High Court in the judgment recorded the following findings :

The result is, as noticed above, that although it cannot be said that the order dated December 30, 1965/January 7, 1966 suspending the plaintiff from service of the defendant College was illegal or null and inoperative against the plaintiff from its inception, it did cease to be operative with effect from October 17, 1975 on the expiry of the 60 days from the commencement of the U.P. Secondary Education Laws (Amendment) Act, 1975.

2. Having recorded this finding, the High Court refused to exercise its discretion to grant a declaration that the order of suspension ceased to be operative with effect from October 17, 1975. We think that the High Court was wrong in refusing to grant the declaration. We, therefore, declare that the order of suspension ceased to be operative with effect from October 17, 1975. The appeal against the judgment of the High Court in Second Appeal No. 2038 of 1978 is disposed of accordingly.

3. In the appeal against the judgment of the High Court in First Appeal No. 450 of 1982 we do not see how the appellant can be denied his salary for the period between February 20, 1964 to January 15, 1966, the date on which the effective order of suspension was communicated to him. Instead of sending the case back to the trial court for determining the amount, we think that a decree may straightway be passed for a sum of Rs. 10,000 which will include salary for the period, interest up to date and costs. It is so decreed. This amount will carry interest at 9 per cent from today, if not paid immediately. The decree of the trial court and High Court are set aside. The appeal is disposed of accordingly.

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