

Managing Committee of M.M. Degree College, Modi Nagar

Vs

Vice-Chancellor, Meerut University and Others

Civil Appeal No. 2548 of 1997

(K. Ramaswamy, G. T. Nanavati JJ)

17.03.1997

ORDER

1. Leave granted. We have heard learned counsel on both sides.

2. The third respondent, Dr. B. S. Goel, while working as Head of the Department of Statistics in M.M. Degree College, Modi Nagar had gone on foreign assignment in Basra University, Iraq for a period of one year. Subsequently, a letter was written by the Managing Committee on 20-8-1979 seeking the third respondent to join duty. Since he did not join duty, the Managing Committee passed a resolution to hold an enquiry into unauthorised absence from duty. On 27-2-1980, a charge-sheet in the shape of a letter was sent to Respondent 3. He did not participate in the enquiry. The Enquiry Officer submitted his report on 19-6-1980. The Managing Committee, on consideration of the report, dismissed the third respondent on 31-7-1980 subject to the confirmation by the Vice-Chancellor. The Vice-Chancellor in his letter dated 19-12-1980 stated that since the third respondent had gone on foreign assignment, with the approval given by the appellant Management, termination without giving an opportunity to the respondent to join duty is not proper. Accordingly, a cable was sent to the third respondent university as under :

"On 20-1-1981, the University sent him a cable on his Basra address and had also sent a copy in confirmation of the above cable that he should join M.M. College, Modi Nagar (Ghaziabad) immediately and latest by 15-2-1981 positively failing which the Vice-Chancellor will approve the termination proceedings in this case."

3. Admittedly, the third respondent, Dr. B. S. Goel did not join duty by the prescribed time. Consequently, he was not taken on duty when he later on reported for duty after coming to India. He filed a writ petition in the High Court. The High Court, in the impugned order, dated 8-1-1996, in Writ Petition No. 9343 of 1981, has held that since the approval of termination was not given earlier, the Vice-Chancellor had not power to review the order and accord sanction for termination by the proceedings dated 21-2-1981.

4. We find that the view taken by the High Court is not correct. The approval sought by the appellant for the third respondent's absence from service was after the expiry of the period of foreign assignment. Necessarily, he, therefore, unauthorisedly remained absent from duty. Approval by the Vice-Chancellor of the dismissal of a teacher from service is a precondition and the Vice-Chancellor had passed an order with a direction to give further opportunity for joining. Letter dated 15-2-1981 is a conditional letter. On his failure to join duty, the approval of the Vice-Chancellor stood accorded. Under these circumstances, the removal of the respondent from service is accordingly in accordance with law.

5. The appeal is accordingly allowed. The judgment of the High Court stands reversed. The writ petition is dismissed. No costs.