

(Supreme Court Of India)

Kendriya Vidyalaya Sangathan

v.

Abdul Khader Darga & Others

(Y.K. Sabharwal and C.K. Thakker,JJ.,)

C. A. No. 4808 of 2005 | 05-08-2005

1. The office report dated 29th July, 2005 shall be complied with by learned Counsel for the petitioners within one week.

2. Leave granted.

3. The first respondent, after departmental inquiry, was removed from service. The order of removal has, however, been set aside by the Central Administrative Tribunal, Bangalore, directed reinstatement with fifty per cent back wages. The order of the Tribunal has been confirmed by the High Court but liberty has been reserved to the Management-appellant to hold a fresh departmental inquiry, if they so desire. The Management has challenged the order of the Tribunal as also of the High Court.

4. The main ground on which the order of removal has been set aside by the Tribunal was violation of principles of natural justice inasmuch as the respondent, in departmental proceedings, was proceeded ex parte on 12th June, 2000 and the said order was not recalled despite the employee's representations immediately thereafter, i.e., on 2nd June, 2000 and 24th July, 2000.

5. Notice has been issued to the respondent-employee limited to the question also to why the inquiry proceedings against him may not proceed from the stage when he was proceeded ex parte on 12th June, 2000. We have heard learned Counsel for the parties and are of the view that the matter deserves to be disposed of in terms of the order made while issuing limited notice to the employee/first respondent.

6. Accordingly, we set aside the impugned judgment of the High Court, the order of the Tribunal and also the order imposing on the respondent punishment of removal and direct the inquiry to be continued from the stage when the respondent was proceeded ex parte on 12th June, 2000. We direct expeditious finalization of inquiry proceedings. We have been assured that the employee will fully cooperate in the inquiry so that it can conclude preferably within a period of two months of the receipt of the copy of this order. Soon thereafter, appropriate orders would be passed by the Disciplinary Authority on the basis of the inquiry. During the pendency of the inquiry, the first respondent-employee would be on deemed suspension and subsistence allowance would be paid to him in accordance with rules.

7. We express no opinion on merits, one way or the other. All pleas, legal and factual would be available to the parties in accordance with law.

8. The appeal is disposed of in the above terms.