

SUPREME COURT OF INDIA

Om Prakash Mann

Vs.

Director of Education (BASIC)

C.A.No.6014 of 2004

(H. K. Sema and D. K. Jain, JJ.)

29.08.2006

JUDGEMENT

H. K. SEMA, J.:-

1. The challenge in this appeal is to the order dated 16-9-2003 dismissing the writ petition by confirming the order dated 22-2-1992 passed by the Director of Education (Appellate Authority) dismissing the appeal.

2. We have heard the parties.

3. Few facts may be noted :

(1) The appellant was appointed as Head Master on probation by an order dated 22-10-1984 (despite

repeated request, the appointment order has not been placed on record). It is, however, admitted that the appellant was on probation.

(2) The service of the appellant was terminated by an order dated 11-8-1989 as required under the Rule, preceded by an inquiry. He has carried an unsuccessful appeal before the Appellate Authority. Aggrieved thereby the appellant filed a writ petition which has been dismissed by the High Court. Hence the present appeal.

4. On 1-2-1989 the following charges were framed against the appellant :

"You are charged for intentional serious dereliction of duty, misappropriation of funds, not proving your integrity during period of probation etc. and other charges which are enclosed as evidence and being sent to you by post. An action against you is proposed according to resolution No. 2 passed on 8-1-1989 by the Committee of Management under Rules 32-37 of Chapter 3 of service conditions (See 16-Ch.) of U. P. Intermediate Education Act, 1921.

You are called upon to submit your reply within three weeks of the receipt of charge sheet and also indicate as to whether you want to personally appear before the enquiry Committee so that you can be informed about the date and time of the enquiry proceedings."

5. Thereafter, an enquiry was initiated against the appellant. Undisputedly, the appellant participated in the enquiry proceedings and he was afforded an opportunity to defend himself.

6. The following contentions have been raised by the appellant:

(a) the chargesheet is vague and

(b) no copy of the enquiry report was furnished to the appellant.

7. These are the two main grounds which have been urged before the Learned Single Judge as well as before us.

8. With regard to the first ground, as noticed above, in the charges framed on 1-2-1989 he was called upon to submit a reply within three weeks from the receipt of chargesheet. It appears that he had replied to the charges on 17-2-1989 but no ground was taken that the chargesheet was vague and he was unable to effectively give reply to the charges. The appellant also participated in the disciplinary proceedings without demur and he is now estopped from raising such issue.

9. The second ground that no copy of the enquiry report had been furnished to the appellant thereby violated the principle of natural justice has also no substance. On this ground the learned Judge recorded a finding that the appellant was unable to show as to how he has been prejudiced for non-furnishing of the copy of the report. We agree with the finding of the learned Judge of the High Court.

10. By now it is well settled principle of law that doctrines of principle of natural justice are not embodied Rule. It cannot be applied in the strait-jacket formula. To sustain the complaint of violation of the principle of natural justice one must establish that he has been prejudiced by non-observance of principle of natural justice. As held by the High Court the appellant has not been able to show as to how he has been prejudiced by non-furnishing of the copy of the enquiry report. The appellant has filed a detail appeal before Appellate Authority which was dismissed as noticed above. It is not his case that he has been deprived of making effective appeal for non-furnishing of copy of enquiry report. He has participated in the enquiry proceedings without any demur. It is undisputed that the appellant has been afforded enough opportunity and he has participated throughout the enquiry proceedings, he has been heard and allowed to make submission before the enquiry Committee.

11. Admittedly, the enquiry was also initiated against the appellant when he was on probation. It is well settled principle of law that if the probationer is dismissed/terminated during the period of probation no opportunity is required to be given and, therefore, the question of violation of principle of natural justice does not arise in the given facts of this case.

12. The appellant was appointed as Head Master of the Institute. The conduct of the appellant, therefore, must be role model. Considering the conduct of the appellant as revealed in the chargesheet, in our view, the appellant has committed a grave misconduct which would warrant his termination from service.

13. For the reasons aforesaid, this appeal being devoid of merit is accordingly dismissed.

Appeal dismissed.

