

# SUPREME COURT OF INDIA

Municipal Corpn.of Greater Mumbai

Vs.

Laxmi Harish Sharma

C.A.No.5268 of 2008

(R.V. Raveendran J.)

27.08.2008

## ORDER

1. Leave granted. Heard learned counsel for the parties.
2. The first respondent was a teacher in the third respondent school run by the second respondent Trust. She was appointed in the year 1990 and confirmed on 24.6.1993. Within one month thereafter, by letter dated 21.7.1993, the school management informed the first respondent that her services were terminated with effect from 31.7.1993 on account of reduction in the student strength in Standard-II. Even though the Superintendent of the Schools Section of the appellant Municipal Corporation, by letter dated 11.9.1993, directed the school management to reinstate the first respondent, she was not reappointed. The first respondent therefore approached the High Court in W.P. No.1879 of 1993. The High Court, by judgment dated 30.8.2005 has allowed the writ petition. It held that the school management could not terminate the services of a teacher on the ground of reduction in number of students in a division without the approval of the school department of the Municipal Corporation.

“Incidentally it also referred to certain action of the officials of the appellant-Corporation which according to the Court were not satisfactory. The Court has chosen to term certain act of one of the officers of the Corporation as 'an act intended to mislead the Court'. Ultimately, the High Court directed that first respondent be reinstated from the date on which she was terminated with 50% backwages. The Court also directed the appellant Municipal Corporation to pay the said backwages to the first respondent and thereafter recover it from the management as well as from its own officers who are found liable after taking action for fixing liability on that behalf.”

3. The school management has accepted the said judgment. It has not challenged the order of the High Court. On the other hand, it has filed a counter affidavit in this Court on 26.7.2006 stating that in compliance of the order of the High Court, the first respondent had been

reinstated. It has also submitted that it supports the order directing the payment of 50% backwages in principle.

4. The grievance of the appellant Municipal Corporation is in regard to the observation against its officers and the direction to recover 50% backwages not only from the management but also from its own officers who are found liable after fixing liability.

5. On an examination of facts and circumstances, we feel that the direction to the appellant to hold an enquiry and fix responsibility on the officers of the appellant appears to be unwarranted. Similarly, the Court's observation that the submission of an officer of a Corporation that the first respondent could have filed an appeal under Rule 20 of Appendix-VII of the Grant-in-Aid Code, amounted to misleading the Court was also unwarranted. Mere wrong statement of law does not amount to misleading the Court.

6. A grievance is also made that the High Court ought not to have directed the appellant Municipal Corporation to pay the amount and thereafter recover it from the school management. It is submitted that only the school management ought to have been directed to pay the amount. It is, however, not disputed that the appellant corporation will not be put to any loss as it can recover the amount from the management.

7. It is not, therefore, necessary to examine the contention of the appellant that the Court ought to have directed the school management to directly pay the amount to the first respondent instead of directing the appellant Municipal Corporation to pay the amount and recover it from the school management.

That question is left open.

8. In the circumstances, we are of the view that the matter can be disposed of by deleting the direction to fix responsibility on the part of the officers of the corporation and the direction to recover any amount from its own officers. We also delete the observation that any officer of the Corporation attempted to mislead the Court. As a result, the appellant Municipal Corporation will have to now pay the 50% backwages amount to the first respondent, if it has not already been paid, and recover the same from the management as per the direction of the High Court. The appellant Municipal Corporation is given eight weeks' time to make payment. The appeal is disposed of accordingly.