

SUPREME COURT OF INDIA

Dav College Managing Committee

Vs.

Surender Rana & Anr.

C.A.No. 2719 of 2007

(R.V. Raveendran and A.K.Patnaik,JJ.,)

03.02.2011

ORDER

1. The first respondent was appointed on 1.8.1996, as Store Keeper, on probation for a period of one year, by the appellant, which runs a private unaided school. He was removed from service on 1.7.1997 by giving a month's salary in lieu of notice. The first respondent challenged his removal by filing an appeal before the Delhi School Tribunal. The said appeal was allowed on 15.1.2002 and the order of removal was set aside on the ground that the appellant had not taken the prior permission of the Director of Education. The writ petition filed by the appellant challenging the said order, was dismissed by a learned single Judge of the High Court on 8.2.2006 and the appeal filed by the appellant was also dismissed by a Division Bench on 30.11.2006. The said order is challenged in this appeal by special leave.

2. Rule 105 of the Delhi School Education Rules, 1973 deals with probation and prescribes the period probation. The second proviso to sub-Rule (1) of Rule 105 clearly provides that no termination from service, of an employee on probation shall be made by a school, other than a minority school, except with the previous approval of the Director.

3. The appellant does not dispute the fact that it is not a minority school. Therefore, the second proviso to Rule 105(1) applies to the order of removal of first respondent from service.

4. In the circumstances, the orders of the Tribunal and the High Court holding that the termination without the previous approval of the Director under Rule 105 was illegal, does not call for interference. The appeal is dismissed.