

**THE SUPREME COURT OF INDIA**

Correspondent, Anaikar Oriental (Arabic) Higher Secondary School and Anr.

Vs.

A.Haroon & Anr.

C.A.No.12067 of 2016

(Jasti Chelameswar and Prafulla C.Pant,JJ.,)

14.12.2016

**JUDGMENT**

**Prafulla C.Pant,J.,**

SLP.(Civil)No.30610 of 2016

1. Leave granted.

2. This appeal is directed against judgment and order dated 26.09.2016, passed by the High Court of judicature at Madras in Writ Appeal No. 427 of 2016, whereby the Writ Appeal is dismissed, affirming the order dated 20.03.2015 of learned Single Judge of the High Court in Writ Petition No. 17838 of 2010.

3. Brief facts of the case are that respondent no.1 (writ petitioner) was P.G. Assistant in Biology, with the minority institution run by the appellants. It is pleaded by the appellants that respondent no. 1 disobeyed the orders of the Head Master (appellant no.2) and assaulted him. He not only failed to organize Science Club in the year 2002-2003, but also failed to submit Stock Register for the academic year 2006-2007. It is further alleged that he failed to submit practical notebooks of students of class X1 (in 2007). It is further alleged that in February, 2008 respondent no. 1 declined to hold XII standard Practical Examination. It is also stated that respondent no. 1 did not comply with the instruction of the Head Master to participate in rain water harvest project. On 24.06.2008, respondent no. 1 said to have hurled abuses at the Head Master, and assaulted him.

4. A charge memo was served on respondent no. 1 and he was placed under suspension. After enquiry, his services were terminated on 01.09.2008. He preferred an appeal before respondent no. 2, i.e. Joint Director, School Education, Chennai. Respondent no.1 simultaneously filed Writ Petition No. 25980 of 2008 which was disposed of by the High Court on 03.11.2008 directing the second respondent to consider the appeal filed by the respondent no. 1. Said order was later modified on 24.03.2009, observing that if any appellate tribunal is constituted, respondent no. 2 shall direct the respondent no. 1

to approach such authority. Finally, Respondent no. 2 considered the appeal and dismissed the same, vide order dated 09.06.2010, and regard being had to the conduct of the employee it was held that there was no illegality in the termination order. On this respondent no. 1 filed Writ Petition No. 17838 of 2010, challenging the order of termination, and the order passed by the appellate authority (respondent no. 2).

5. Learned Single Judge of the High Court allowed the above writ petition, vide order dated 20.03.2015, holding that the principles of natural justice have not been followed in the present case. It is observed that management cannot act as complainant, prosecution and judge. The Division Bench, vide impugned order, affirmed the order passed in the writ petition No. 17838 of 2010.

6. This court, on 28.10.2016, after hearing the learned counsel for the parties, passed following order in the Special Leave Petition (c) No. 30610 of 2016 ( from which this appeal has arisen).

“As prayed on behalf of the respondents, let the matter be listed after two weeks. Till the next date, contempt proceedings, if any, arising from the Impugned order shall remain stayed. We may record here that there is a proposal made on behalf of the petitioners for a lump sum monetary payment between 40 to 50 lakhs by way of golden hand shake instead of reinstatement and back wages. Learned counsel for the respondent shall seek instruction on this issue”.

7. On 05.12.2016, when this matter was taken up, Shri Raju Ramachandran, Senior Advocate, on behalf of the appellants submitted that the appellants are ready to pay lump sum amount maximum to the extent of Rs.50 lacs to respondent no. 1 by way of golden hand shake for reinstatement and back wages, to which Shri Neeraj Shekhar, learned counsel for respondent no. 1, responded by saying that he leaves it to the discretion of this Court. We think it relevant to mention here that it is not clear from the record that respondent no. 1 did not get engaged in some other employment after termination of service.

8. In view of the above, considering the facts and circumstances of the present case, particularly the fact that the respondent no. 1 has lost the confidence of management (appellants), we are of the opinion that the order of reinstatement with back wages can be substituted by directing the appellants to pay Rs.50 lacs as lump sum amount of compensation to respondent no. 1, which appears to be just and proper.

9. Accordingly, this appeal is disposed with direction to the appellants to pay compensation of Rs.50 lacs to respondent no. 1 within a period of two months from the date of this order. In case the payment is made as directed above, the order of reinstatement and back wages shall stand set aside and the impugned order passed by the High Court shall stand interfered with and modified to the extent as above, failing which the appeal shall stand dismissed. No order as to costs.

## **ORDER**

10. When the judgment is delivered, learned counsel appearing for the appellants prays for time to make payment in terms of the judgment delivered today.

11. Heard learned counsel for the respondent(s).

12. In the circumstances, we deem it appropriate to permit the appellants to pay the amount mentioned in the judgment in three equal monthly instalments, the first of which shall be payable on or before 10th January, 2017. The other two instalments shall be paid on or before 10th of other succeeding months.