

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).5573/2003

(From the judgement and order dated 29/08/2002 in SA No. 211/2002 of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

PARMESHWARI DAYAL SAXENA

Petitioner(s)

VERSUS

BASIC SHIKSHA PARISHAD, U.P. & ORS.

Respondent(s)

(With appln(s) for exemption from filing O.T. and prayer for interim relief (for final disposal)

Date: 15/02/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA

HON'BLE MR. JUSTICE MARKANDEY KATJU

For Petitioner(s)

Mr. C.D. Singh,Adv.

Mr. Merusagar Samantaray, Adv.

For Respondent(s)

Ms. Mridula Ray Bharadwaj,Adv.

Mr. Vishwajit Singh, Adv.

Ms. Niranjana Singh ,Adv

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

The appeal is dismissed in terms of the signed order.

(Meenu Sethi)

(Anand Singh)

Court Master

Court Master

Signed order is placed on the file

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 794 OF 2007

(Arising out of SLP(C) No.5573/2003)

Parmeshari Dayal Saxena ...Appellant

Versus

Basic Shiksha Parishad,U.P. ...Respondents

& Ors.

ORDER

Leave granted.

The appellant herein was appointed in the post of Head Master in Bundelkhand Purva Madhyamik Vidyalaya, Chilli, Rath, Hamirpur on 6.7.1972. Although, he alleges that he was confirmed in the said post on 31.1.1974, according to the respondents his services had not been confirmed and he enjoyed only the status of a temporary employee.

On several charges including the one of

embezzlement, his services had been terminated. Appellant represented his case before the competent authority - Basic Shiksha Adhikari challenging the validity of the the order (dated 17.5.1977) of termination from the service. An appeal preferred thereagainst was dismissed on the premise that the same was barred by limitation. The appellant filed a writ petition before the Allahabad High Court which by reason of an order dated 28.8.1992 was allowed directing the appellate authority to dispose of the appeal on merit. By an order dated 20.4.1993, the appellate authority, inter-alia, upon perusing the records and hearing the parties came to the conclusion that it was not necessary for the Managing Committee of the School to initiate any disciplinary proceedings against the appellant as he himself had admitted the fact in the meeting of the Committee that he had received a sum of Rs. 6,000/- under the scheme. A writ petition filed against the order of the appellate authority has been dismissed by the impugned judgment.

Learned counsel appearing for the appellant would submit that the impugned order of termination having been issued without applying the principles of natural justice, the same cannot be sustained.

We have perused the records placed before

us , whereupon it appears that the appellant admitted the receipt of Rs. 6,000/-. Furthermore, we have also noticed that the appellant was also found guilty of other mis-conduct on earlier occasions. It further appears that the appellant's appointment itself was illegal as he was appointed on the basis of an application made by him which was accepted on the same day and he also joined the school on the same day. Vacancy in the post was not advertised. Evidently, the provisions of the Statute for recruitment had not been complied with.

For the reasons aforementioned, we are not inclined to exercise our jurisdiction under Article 136 of the Constitution of India. The appeal is dismissed.

.....J.

[S.B. SINHA]

.....

...J.

[MARKANDEY]

KATJU]

New Delhi,

February 15, 2007