

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6014 OF 2004

OM PRAKASH MANN

... APPELLANT

VERSUS

DIRECTOR OF EDUCATION (BASIC) & ORS.

... RESPONDENTS

J U D G M E N T

SEMA, J.

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.

We have heard the parties.

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

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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.

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 Rule 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."

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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.

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.

These are the two main grounds which have been urged before

the

Learned Single Judge as well as before us.

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.

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

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no substance. On this ground the learned Judge recorded a finding that the 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.

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 straight 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.

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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.

The appellant was appointed as Head Master of the Institute. The

conduct of the appellant, therefore, must be a 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.

For the reasons aforesaid, this appeal being devoid of merit it is

accordingly dismissed.

.....J.

(H.K. SEMA)

.....J.

(D.K. JAIN)

NEW DELHI,
AUGUST 29, 2006.

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ITEM NO.109

COURT NO.7

SECTION XI

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

RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 6014 OF 2004

OM PRAKASH MANN

Appellant (s)

VERSUS

DIRECTOR OF EDUCATION (BASIC) & ORS.

Respondent(s)

(With office report)

Date: 29/08/2006 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.K. SEMA

HON'BLE MR. JUSTICE D.K. JAIN

For Appellant(s)

Mr. Gaurav Jain, Adv.

Ms. Abha Jain, Adv.

For Respondent(s)

Mr. Subodh Markandeya, Sr. Adv.

Ms. Chitra Markandaya, Adv.

Mr. Vinod Chetan, Adv.

Ms. Vibha Arora, Adv.

UPON hearing counsel the Court made the following

O R D E R

The appeal being devoid of merit is dismissed in terms
of the signed judgment.

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(PAWAN KUMAR)

(ANAND SINGH)

COURT MASTER

COURT MASTER

(signed non-reportable judgment is placed on the file)