

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 6286 OF 2008
[Arising out of SLP(C) No. 11298/2004]

RUDRA PRATAP SINGH

... APPELLANT(S)

:VERSUS:

DEPUTY DIRECTOR OF EDUCATION AND ORS.

... RESPONDENT(S)

ORDER

Leave granted.

Appellant is aggrieved by and dissatisfied with the judgment and order dated 5.4.2004 passed by the High Court of Judicature at Allahabad in Civil Miscellaneous Writ Petition No. 12329/1000 whereby and whereunder the writ petition filed by him challenging an order dated 12.4.1990 passed by the Deputy Director of Education, U.P., modifying the order dated 16.7.1987 passed by the District Inspector of Schools (“DIOS”), was dismissed.

Appellant was appointed as a Clerk in the Janta Uchhatar Madhyamik Vidyalaya, Madanpur, situated at Gola in the District of Deoria. It is a private institution. It is managed by a Committee of Management. However, it is governed by the provisions of the U.P. Intermediate Education Act and the Regulations framed

thereunder.

Appellant is said to have embezzled some amount out of GPF deduction cheques which were issued in the name of ex-Principal of the said school. Indisputably, a departmental proceedings was initiated against him. A charge-sheet containing 5 charges was drawn up. He was asked to show cause, pursuant where to cause was shown by him, inter alia, contending that he had no role to play in the matter. He denied and disputed the charges leveled against him. However, despite the opportunities granted, he did not take part in the disciplinary proceedings.

The Inquiry Officer submitted a report in the year 1986 finding him guilty of the charges levelled. The Committee of Management - Respondent No.3, relying on or on the basis the said report passed an order of dismissal.

Admittedly, in view of the provisions of the said Act and the regulations framed thereunder, approval of the District Inspector of Schools was necessary for passing an order of dismissal. The order of punishment together with the records was, therefore, forwarded to DIOS. Before the said authority also the appellant did not appear.

By reason of its Judgment dated 16.7.1987, the DIOS while holding that the charges levelled against the appellant were totally proved, was of the opinion that from humanitarian point of view, in stead and in place of imposing a punishment of termination of the services of the appellant, he should be reverted back to the initial

scale of pay from the date of his suspension and the purported amount of Rs. 15,901/- should be recovered from him in easy installments.

Aggrieved by and dissatisfied with the said decision of the DIOS, both appellant as also respondent No.3 preferred appeals. The Deputy Director of Education, U.P., by reason of its order dated 12.4.1990, while allowing the appeal of respondent No.3, dismissed the one preferred by appellant.

Respondent No.1 – Deputy Director of Education also in his order opined that all the five charges were serious ones. It was directed:

“Therefore, the appeal of Manager Janta Uchhtatar Madhyamik Vidyalaya, Madan Pur (Gola) is allowed by using the rights enshrined under the rules made under Section 16G of Intermediate Education Act and the Order of District Inspector of School dated 16.7.87 is set aside. The proposal for the dismissal of Shri Rudra Pratap Singh from service is approved and the order is passed for initiating the proceedings for immediate recovery of the amount of embezzled by Shri Singh. Along with it, appeal of Shri Rudra Pratap Singh dated 25.7.87 is rejected.”

Aggrieved by and dissatisfied therewith, appellant filed a writ petition before the High Court of Allahabad. The High Court by reason of the impugned judgment held that even if charge No.5 is excluded from consideration, the remaining charges being serious ones, the quantum of punishment cannot be said to be disproportionate thereto. The writ petition was allowed in part, directing:

“The writ petition is partly allowed. The orders of District Inspector of Schools and Deputy Director of Education directing recovery of Rs. 14,180/- from the petitioner's salary is set aside. The rest of the punishment are maintained.”

Appellant is, thus, before us.

Mr. Shiva Pujan Singh, learned counsel appearing on behalf of the appellant would contend that although the Inquiry Officer proceeded ex-parte against the appellant, the same would not mean that the Inquiry Officer was not required to either record reasons in support of his finding or to arrive at the conclusion that the charges have been proved on the basis of the materials on record. It was contended that keeping in view the fact that appellant denied and disputed all the charges and, particularly, in view of the fact that a plea was raised that he was not responsible for the acts of embezzlement and other purported misconduct, the Inquiry Officer in his report at least should have referred to the materials which had been brought on record by the Managing Committee of the said school, to show as to how the said charges were said to have been proved.

In the facts and circumstances of this case, we are not persuaded to accept the aforementioned submission of Mr. Singh. Charge Nos. 1 to 4 could be proved by documents maintained in the school. An Audit Report was also available. The institution was a private institution. The terms and conditions of the services of the appellant were governed only in terms of the regulations framed under the U.P. Intermediate Education Act in terms whereof certain requirements were to be

fulfilled, before an order of dismissal could be given effect to. One of them, as noticed hereinbefore, was to obtain the approval from the DIOS.

The DIOS exercises a wide jurisdiction. He must have considered the materials brought on record in the disciplinary proceedings. Even the said authority, as noticed hereinbefore, has arrived at the conclusion that all the five charges framed against appellant were serious ones and they have been proved. Appellant preferred an appeal against the said order before respondent No.1. The said respondent also arrived at a similar finding.

In the writ petition, the High Court was, therefore, concerned inter alia with the question as to whether the respondent Nos. 1 & 2 acted within their jurisdiction in terms of the provisions of the said Act and the Regulations framed thereunder.

The fact that respondent Nos. 1 & 2 had jurisdiction to consider the entire matter is not in dispute. We have been taken through the orders passed by respondent No. 2 and respondent No.1, respectively, and we find that the same contain very detailed reasons.

The principal contention raised by appellant before the High Court related to the quantum of punishment. It was from that point of view, a further contention was raised by appellant as to whether charge No.5 was beyond the scope of the inquiry. The High Court proceeded on the premise that charge No.5 may be excluded but even if it is so, having regard to the nature of charges leveled against the

appellant, imposition of punishment of dismissal of the services of the appellant was held to be justified.

In the aforementioned premise, we are of the opinion that no case has been made out for interference with the impugned judgment. This appeal is, therefore, dismissed.

.....J
(S.B. SINHA)

.....J
(CYRIAC JOSEPH)

NEW DELHI,
OCTOBER 17, 2008.