

(7) Lastly, reference may be made to the decision of this court in *Smt. Prem Lata v. State of Punjab and others*, by S. S. Sodhi, J., wherein also State Government had declined to refer the dispute for adjudication on the ground of delay and the workman in that case had settled the accounts with the management. Even though the factum of settlement was disputed, this Court upheld the order of the State Government and dismissed the writ petition.

(8) In the result, there is no merit in this writ petition and the same is dismissed with no order as to costs.

(5) C.W.P. No. 362 of 1980 decided on 19th September, 1988.

J.S.T.

Before : S. S. Sodhi & G. C. Garg, JJ.

HINDU HIGHER SECONDARY SCHOOL, KAITHAL,—Appellant.

versus

THE STATE OF HARYANA AND OTHERS,—Respondents.

Amended Letters Patent Appeal No. 1287 of 1990

30th September, 1991.

Haryana Aided Schools (Security of Service) Rules, 1974—Rl. 8—Constitution of India, 1950—Art. 226—Termination of service during period of probation—Termination on ground of decrease in number of students—Appellate Authority on facts finding that there had been no decrease in number of students—Post not abolished—No material on record showing that petitioner was junior-most teacher—Termination is illegal—Order of Appellate Authority directing reinstatement with consequential benefits upheld.

Held, that there was no reduction in the posts of teachers or the abolition of even the post held by the respondent. If indeed, short-fall of students rendered it imperative to reduce the number of teachers, abolition of posts would be the obvious and natural consequence. There is neither any material on record to show how the respondent was in fact the junior most teacher or how even with the reduction of Sections from 29 to 27, it was upon him, that the axe had inevitably to fall. Hence, no occasion is provided here to grant any relief to the School as claimed and the appeal is consequently dismissed.

(Paras 6, 7 & 8)

Hindu Higher Secondary School, Kaithal v. The State of Haryana and others (S. S. Sodhi, J.)

Amended Letters Patent Appeal under Clause X of the Letters Patent Act against the judgment of Hon'ble Mr. Justice K. P. Bhandari, passed in C.W.P. No. 323 of 1982 decided on 16th November, 1990.

A. C. Jain, Advocate (Mr. Munish Jain, Advocate with him), for the Appellant.

P. S. Patwalia, Advocate (M/s Gurpreet Singh Gill and Anuj Raura and H. S. Sethi, Advocates), for the Respondents.

JUDGMENT

S. S. Sodhi, J.

(1) The matter here concerns the termination of the services of a teacher at the Hindu Higher Secondary School, Kaithal, during his period of probation on the ground that his services were no longer required not that his work and conduct was not satisfactory. The provisions of the Haryana Aided Schools (Security of Service) Act, 1971 and the rules framed thereunder admittedly being applicable.

(2) On December 10, 1979, after being duly selected by the Selection Committee, the respondent Shri Ram Kumar Sharma, was appointed Social Studies Master. According to the terms of his appointment, he was to be on probation for a period of two years. Before the expiry of this period, however, his services were terminated by the order of May 2, 1981 (annexure P/3) on the ground that they were no longer required. This order was passed in pursuance of the resolution of the Managing Committee of the School of April 30, 1981 (annexure P/2) which reads as under :—

“As the number of students of the school is decreasing, it is unanimously resolved that Shri Ram Kumar Sharma, the Junior most S. S. Master be given one month's notice and be relieved accordingly. —”.

(3) Shri Ram Kumar Sharma respondent, represented against the termination of his service to the District Education Officer, but no relief was granted to him. He thereupon, went up in appeal before the Director of School Education, Haryana under the Haryana Aided School (Security of Service) Act, 1971 and the rules framed thereunder. During the hearing of the appeal on being so directed.

both Shri Ram Kumar Sharma and the Manager of the School appeared before the appellate authority, in person. It is significant to note that on being asked to explain, the circumstances under which the services of Shri Ram Kumar Sharma had been terminated, instead of giving any reason in support of the action taken, the Manager of the School sought to rest content with the stand that under Rule 3 of the Haryana Aided Schools (Security of Service) Rules, 1974, the Management was fully competent to dispense with the services of the respondent as he was still working on probation. The order of terminating the services of Shri Ram Kumar Sharma was consequently quashed and the Management was directed to reinstate him in service forthwith. Full pay and allowances for the period that he remained out of service were also ordered to be paid to him. It is this order of the Director of School Education, Haryana, that was sought to be challenged in proceedings under Article 226 of the Constitution of India.

(4) In appeal here, it was the categorical stand of Mr. A. C. Jain, counsel for the School that the services of Shri Ram Kumar Sharma had been terminated not because his work and conduct was not satisfactory, but on account of a shortfall in the number of students rendering imperative reduction in the strength of teachers. Shri Ram Kumar Sharma, it was asserted, in this behalf, was the junior most amongst the teachers. Neither of these pleas can, however, stand scrutiny.

(5) It is no doubt correct that decrease in the number of students was mentioned in the resolution of the school Management, (annexure P-2) as the reason for terminating the services of Shri Ram Kumar Sharma, but a reference to the affidavit of Shri M. L. Gupta, Principal of the School of July 17, 1991 would show that the strength of the students in April, 1979 was 1494, which went up to 1507 in April, 1980 after being as high as 1753 in September, 1979. During the same period, next year, that is September, 1980, it went higher to 1896, coming down, however in March, 1981 to 1751 and to 1186 in April, 1981. The number, however, again rose to 1525 in May, 1981 and then to 1833 in July that year. These figures have their own tale to tell. What is pertinent to note here is that despite the specific direction of this Court, by the order of May 30, 1991, no information was furnished by the School regarding the Sections in various classes during the relevant period, which cannot, but warrant an adverse inference being drawn against the School.

Managing Committee, Dayanand Mahila Mahavidyala, Kurukshetra
and another v. Smt. Sharda Rani and others
(S. S. Sodhi, J.)

(6) The other matter of material significance that impels notice is that there was no reduction in the posts of teachers or the abolition of even the post held by Shri Ram Kumar Sharma. If indeed, shortfall of students rendered it imperative to reduce the number of teachers, abolition of posts would be the obvious and natural consequence. Counsel for the appellant had no explanation to offer for there being no abolition of any post.

(7) Further, counsel for the appellant School was unable to point to any material on record to show how Shri Ram Kumar Sharma was in fact the junior most teacher or how even with the reduction of Sections from 29 to 27, as mentioned in the petition, it was upon him, that the axe had inevitably to fall.

(8) Such being the circumstances, no occasion is provided here to grant any relief to the School as claimed. This appeal is consequently hereby dismissed with Rs. 1,000 as costs.

(9) A further direction is hereby issued to the School Management to pay to Shri Ram Kumar Sharma all his arrears of pay and allowances by on or before October 7, 1991.

R.N.R.

Before : S. S. Sodhi & G. C. Garg, JJ.

MANAGING COMMITTEE, DAYANAND MAHILA MAHA-
VIDYALA, KURUKSHETRA AND ANOTHER,—Appellants.

versus

SMT. SHARDA RANI AND OTHERS,—Respondents.

Letters Patent Appeal No. 921 of 1991.

30th October, 1991.

Constitution of India, 1950—Art. 226—Appointment—Resignation—Offering of post—D.M.M. Kurukshetra advertising post of lecturer in Psychology—After holding interviews, respondent selected and placed at No. 2 in the select list—Candidate placed at No. 1, although working as lecturer in A.M.M., Bhitwani, taking up her new assignment only for three days and thereafter submitting resignation—Appointment to such post—D. R. (Colleges) issuing directions