2026 INSC 1241

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 10193-10194 OF 2016

PRITHVIRAJ S. SINGH (DECEASED)
THROUGH LRS. ETC. … APPELLANT(S)

VS.

THE SECRETARY, SCHOOL EDUCATION DEPARTMENT,
STATE OF MAHARASHTRA & ORS. … RESPONDENTS

J U D G M E N T

DIPANKAR DATTA, J.

1. The present case illustrates how a meritorious cause was allowed to fail by reason of inept drafting of a writ petition, the substance having been eclipsed by form.

2. Appellant—Prithviraj S. Singh[1] was a senior clerk, and appellant—Shivadatta R. Singh[2] was a head clerk in the respondent no. 7[3]. Both, along with the in-charge headmaster—Kamalkant S. Mishra of the school, were proceeded against departmentally for misappropriation of public money and allied charges. The school constituted an inquiry

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Reason:

[1] in C.A. No. 10193 of 2016
[2] in the connected C.A. No. 10194 of 2016
[3] school (run by the respondent no. 4—trust)

committee[4] in terms of the provisions contained in the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981[5] [framed under the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977[6]]. An objection was raised by the appellants to the inclusion of a member of the committee, namely Umesh Pratap Singh. Accepting such an objection, a new member, namely Chandra Kumar Singh, was inducted into the committee. Still, not satisfied, an exception was again taken to the inclusion of the new member. On this occasion, the objection bore no fruit and was rejected. As a mark of protest, the appellants abstained from attending the inquiry, resulting in the inquiry proceeding *ex parte*. Reports of inquiry dated 13th November 2004 (in respect of Prithviraj S. Singh) and 11th November 2004 (in respect of Shivadatta R. Singh) were prepared by the committee holding that the charges against the appellants stood established. Neither the minutes of proceedings of inquiry nor the final inquiry reports were furnished to the appellants. In due course, the appellants were removed (terminated) from service.

3. Termination of the appellants' services triggered litigation at their end. The orders of termination were carried in appeals[7] before the School Tribunal, Mumbai[8], under Section 9 of the Act. Reinstatement in service

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[4] committee
[5] the Rules
[6] the Act
[7] Appeal Nos. MUM/1/2005 and MUM/2/2005 by Prithviraj S. Singh and Shivadatta R. Singh, respectively
[8] tribunal

upon quashing of the disciplinary proceedings, including the inquiry reports and the final orders of penalty, was sought by the appellants. *Vide* interim orders dated 10th March, 2005, the tribunal stayed the operation of the termination orders till disposal of the appeals and directed the school to allow the appellants to resume their service and pay 50% of their salary.

4. Aggrieved by the interim orders, the school invoked the writ jurisdiction of the High Court of Judicature at Bombay[9] by presenting petitions under Article 226 of the Constitution[10]. With the consent of the parties, the petitions were disposed of by a Single Judge on 17th March, 2005. The brief consent order reads as follows:

> At the stage of mentioning, the matter has been taken up on Board for admission by consent.
> Counsel appearing on behalf of the Petitioners and for the First Respondent-employee are agreed that the following order may be passed by consent in substitution of the impugned order dated 10th March, 2005 of the Presiding Officer of the School Tribunal without any further reason being recorded:
> (1) The First Respondent shall, without prejudice to the rights and contentions of the parties be paid an amount equivalent to the subsistence allowance in accordance with law, during the pendency of the appeal before the School Tribunal.
> (2) In view of the judgment of a Learned Single Judge of this Court in Adarsh Vidya Mandir Trust vs. Awadesh Narayan Komal Singh, 2005(1) Bom. C.R. 786, it would be open to the Petitioners to apply before the School Tribunal for leading evidence to substantiate the charge of misconduct against the First Respondent. In the event that such an application is made, the School Tribunal shall deal with such application in accordance with law.
> (3) The School Tribunal shall expedite the disposal of the main appeal and endeavour to do so on or before 31st July, 2005.
> (4) In view of the aforesaid arrangement, the impugned order dated 10th March, 2005 is quashed and set aside.
> (5) This order shall not be construed as amounting to any expression of opinion by the Court on the merits of the case and all the rights and contentions of the parties are kept open to be urged in appeal.

[9] High Court
[10] Writ Petition (Lodg.) Nos. 774 of 2005 and No. 776 of 2005 against Prithviraj S. Singh and Shivadatta R. Singh, respectively

> Both the Petitions are disposed of in the aforesaid terms. There shall be no order as to costs.

5. Despite the liberty granted to the school to file an application seeking permission to lead evidence in support of the charges, it chose not to do so. Curiously, the tribunal, too, did not insist upon the school leading evidence. Instead, based on whatever material was on record, the tribunal dismissed the appeals *vide* separate final orders dated 19th July, 2006 observing similarly that since the appellants had deliberately avoided participating in the inquiry proceedings and failed to nominate their nominee(s) on the committee, they could neither assail the termination on merits in view of the decision of this Court in ***Ranjan Kumar Mitra vs. Andrew Yule & Co. Ltd. & Ors.***[11] nor complain of non-supply of documents under Rule 37(2)(a)(iii) of the Rules as the documents relied upon were school registers and receipt books of which they could have taken extracts had they participated. Also, it was observed that although the committee had not recorded any finding on the charge of misappropriation as the criminal proceeding was pending before the Metropolitan Magistrate and the school had not led the evidence of any witness, there was sufficient documentary evidence in the form of service books of six employees (showing stoppage of annual increments for the academic years 2002-03 and 2003-04) and cash book register entries (showing failure to deposit received money in the bank

[11] (1997) 10 SCC 386

account immediately or within the prescribed time limit) to hold the appellants disentitled to any relief.

6. Crestfallen, the appellants then invoked the High Court's extraordinary writ jurisdiction under Article 226 of the Constitution[12]. The prayer clauses of Writ Petition No. 2506 of 2006 read:

> (a) That a Writ of Certiorari, Writ of Mandamus or any other appropriate writ, order or direction be issued calling for the records and proceedings of Appeal No. 1 of 2005 from the file of Ld. School Tribunal, Mumbai, and after examining the proprieties and legalities of the impugned Judgment and order dated 19.7.2006, be pleased to quash and set aside the same;
> (b) That a Writ of Certiorari, Writ of Mandamus or any other appropriate writ, order or direction be issued calling for the records and proceedings of the so-called Enquiry Proceedings, and after examining the proprieties and legalities of the same, be pleased to quash and set aside the same;
> (c) That a Writ of Certiorari, Writ of Mandamus or any other appropriate Writ, order or direction be issued directing the Respondents jointly and severally to reinstate the Petitioner as Senior Clerk in Respondent No. 7 School with all the consequential benefits such as full back wages till the date of reinstatement;
> (d) That a Writ of Certiorari, Writ of Mandamus or any other appropriate Writ, Order or direction be issued directing the Respondents jointly and severally to extend all the consequential benefits to Petitioner which are available to a permanent employee as if the Petitioner's services were not terminated;
> (e) That pending the hearing and final disposal of the Petition, the Respondent Nos. 6&7, be ordered and directed to deposit the amount of Rs. 1,45,086.00 as per the High Court Orders, in this Hon'ble Court and the Petitioner be granted liberty to withdraw the aforesaid amount on the terms and conditions which may be specified by this Hon'ble High Court;
> (f) That pending the hearing and final disposal of the Petition, the [*sic,* Respondents] jointly and severally be ordered and directed to allow the Petitioner to resume his duties as Senior Clerk in Respondent No. 7 School with a further direction to allow him to work and to pay regular monthly salaries;
> (g) That ad-interim reliefs in terms of prayer (e) & (f) be granted;
> (h) Cost of the Petition be kindly provided;
> (i) Any other just and further relief, which this Hon'ble High Court, may deem fit to grant in the interest of justice.

7. Inexplicably, the appellants in their respective writ petitions neither alleged brazen violation of the consent order dated 17th March, 2005 of

[12] Writ Petition Nos. 2506 of 2006 and 2507 of 2006 filed by Prithviraj S. Singh and Shivadatta R. Singh, respectively

the High Court by the school in not leading evidence to support the charges of misappropriation and allied charges nor challenged the tribunal's omission to consider, *sans* the evidence, that the earlier order of penalty of termination was unsustainable in law and hence of no effect. The principal foundation on which the writ petitions rested was this: the in-charge headmaster, who was proceeded against departmentally along with the appellants, had been similarly terminated from service and, having challenged such order, the tribunal converted the penalty of termination to compulsory retirement. Appellants, accordingly, claimed similar treatment.

8. The outcome of the appellants' writ petitions, in the circumstances, was quite obvious. By a detailed common judgment and order dated 17th June, 2016[13], a Single Judge of the High Court dismissed the appellants' writ petitions, holding, *inter alia,* that the in-charge headmaster and the appellants did not stand on the same footing. The in-charge headmaster was dealt with a bit leniently by the tribunal on account of his impending retirement after having served the school for about three and a half decades, whereas the appellants had completed only a few years by the time they committed the alleged misconduct.

9. We have heard Mr. B.H. Marlapalle, learned senior counsel for the appellants and Mr. Sudhanshu S. Choudhari, learned senior counsel for the school. Perusing the case pleaded in the writ petitions presented by the appellants before the High Court, and as rightly pointed out by Mr.

[13] impugned judgment

Choudhary, the entire part of Mr. Marlapalle's arguments touching upon the merits of the separate orders dated 19th July, 2006 of the tribunal dismissing the appellants' appeals, is found to be beyond the pleadings. A party is under obligation to plead its case by making the requisite averments/assertions in support of the relief that it claims, whereas a court is under no obligation to entertain a plea if the same is not supported by the necessary averments/assertions in the petition. In light thereof, no exception to the impugned judgment can be taken by the appellants to the effect that the Single Judge did not deal with the aspect of the school's omission/neglect in leading evidence before the tribunal to establish the charges afresh, as well as the tribunal's failure to return findings against the school for such omission/neglect. We could have, thus, upheld the impugned judgment and dismissed the appeal by a short order.

10. However, what has engaged our attention and is a matter of serious concern is the circumstance arising from the High Court's consent order dated 17th March, 2005. Why the terms thereof were not adhered to and/or complied with by the school is not forthcoming since Mr. Choudhary, in his usual fairness, did not seek to justify such omission.

11. What, therefore, emerges is that there was no evidence worth the name before the tribunal resting whereon the charges against the appellants could be held 'established'. That apart, despite the appellants not having been furnished the final inquiry reports by the school prior to their services being terminated, which constituted a serious flaw in the

process of taking disciplinary action against them, the tribunal proceeded to hold that there was no infirmity in the proceedings. Though law is well-settled that a high court cannot grant any relief under Article 226 to a litigant who has approached it without pleading an appropriate case for relief, this is a fit case where the appellants deserve to be granted some relief based on the principle that an action/order which is wholly contrary to an express judicial order passed in exercise of competent jurisdiction is a nullity and cannot be accepted[14].

12. Appellant—Prithviraj S. Singh—is no more, while the appellant—Shivadatta R. Singh—is stated to be surviving. *Ex debito justitiae*, the appellants would have been entitled to larger relief if only their writ petitions had been appropriately drafted and the right points had been argued. Since that stage has passed, we exercise our power under Article 142 of the Constitution and direct the school to pay to each of the appellants Rs.10,00,000/- (Rupees ten lakh) only as lump sum compensation for wrongful termination of their services within three months from the date of receipt of this order from the heirs/legal representatives of late Prithviraj S. Singh and from Shivadatta R. Singh or his authorised representative. Such payment of compensation shall be treated as full and final settlement of all the dues of the appellants and no further claim shall be entertainable in this behalf. In default of payment within three months, as aforesaid, the school shall be liable to

[14] See: *Ram Saran Varshney v. State of U.P.*, (2016) 3 SCC 724

pay interest at 12% per annum on such sum until payment is actually released.

13. The appeals are disposed of on the above terms.

14. Connected applications, if pending, shall also stand disposed of.

.....J.
(DIPANKAR DATTA)

.....J.
(SHEEL NAGU)

NEW DELHI;
NOVEMBER 18, 2026.