

Supreme Court of India

Sheikh Mahboob Mader And Anr. vs Syed Ashfaq Hussain And Anr. on 12 January, 1988

Equivalent citations: 1988 (36) BLJR 376, JT 1988 (1) SC 243, 1988 Supp (1) SCC 558

Author: R Misra

Bench: L Sharma, R Misra

ORDER Ranganatha Misra, J.

1. Special leave granted.

2. Appellant No.2 is an education society while appellant No. 1 is its Joint Secretary. Respondent No. 1 was an Assistant Teacher in the employment of the school run by appellant No.2. Dispute arose as to the employment of the teacher in the institution while the employer claimed that the teacher had resigned from service and that is how his services came to an end, respondent No. 1 maintained that he had not resigned from service and that a blank paper with his signature taken from him at the time of his appointment as teacher had been utilised as the letter of resignation. The School Tribunal relied, inter alia, on three affidavits given by once upon a time employees of the institution stating that appellant-society had been following the practice of taking blank papers with signatures at the time of issue of appointment orders and converting the same into letters of resignation as and when necessary. The allegation was specifically denied by filing an affidavit before the High Court.

3. Two writ petitions appeared to have been simultaneously heard and disposed of by the High Court. In one which is not subject-matter of this appeal the High Court stated:

Heard Miss Pisolkar. We have also gone through the record and proceedings. We are satisfied the order of the Tribunal is fully justified. Only technical points are being raised here to cover the malpractices of the petitioner. Rejected.

The impugned order is one of simple rejection of the writ petition.

4. Appellant's counsel claims that the observation of the Tribunal is very much adverse to the institution. If the fact as found is true the institution would suffer in its functioning and it may be difficult for the institution to get good teachers for employment and for receiving assistance from Government. The High Court should have given an opportunity to the appellants to place their case particularly in regard to those observations reference to which has been made above.

5. In this Court when notice was issued the appellants were called upon to deposit a sum of Rs. 1,000/- to meet the expenses of respondent No. 1. In the facts of the case, we are of the view that it will be appropriate that the order of the High Court dismissing the writ petition should be set aside and the matter should go back to the High Court for a fresh disposal on the basis of the materials already before it after hearing the parties. Respondent No. 1 will have now to participate in a further hearing before the High Court. We are, therefore, of the view that the appellants should be called upon to meet the expenses of respondent No. 1. We accordingly direct that the appellants shall deposit a further sum of Rs. 1,000/- before the High Court within four weeks from today and the same may be withdrawn by respondent No. 1 without any condition.

6. Respondent No. 1 maintains that he has not been paid his salary. The High Court will look into it and make an interim order calling upon the appellants to pay the same if it finds that appropriate. Appeal is disposed of. No costs.