

Rani Joseph vs the Chairman

Rani Joseph vs the Chairman

SooperKanoon Citation : sooperkanoon.com/1391845

Court : Kerala

Decided On : Aug-01-2023

Judge : Honourable Mr. Justice Devan Ramachandran

Appeal No. : AR/185/2022

Appellant : Rani Joseph

Respondent : The Chairman

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN
TUESDAY, THE 1ST DAY OF AUGUST 2023 / 10TH SRAVANA, 1945
APPLICANT: RANI JOSEPH AGED 51 YEARS W/O N.DILEEP KUMAR, EX-
AYAH, CHOICE SCHOOL, THRIPUNITHURA, ERNAKULAM-683112 RESIDING
AT: PARAYIL HOUSE, BANGALAVUMKUDI ROAD, CHONANGUMVELI,
ERUMATHALA.P.O. ERNAKULAM, PIN - 683112 BY ADVS. KALA T.GOPI
T.C.GOVINDASWAMY RENUKA M.R. NISHITHA BALACHANDRAN SUDHIR
KUMAR B. RESPONDENTS: 1 THE CHAIRMAN CHOICE SCHOOL, NADAMA
EAST, TRIPUNITHURA, ERNAKULAM DISTRICT -682301. 2 THE PRINCIPAL *
CHOICE SCHOOL ,NADAMA EAST, TRIPUNITHURA, ERNAKULAM DISTRICT -
682301 (*THE ADDRESS OF R2 IS CORRECTED AS PER

ORDER DATED 04/11/2022 IN IA 1/2022 IN AR 185/2022.

3 THE CHOICE FOUNDATION CHOICE HOUSE, P.V.SREEDHARAN ROAD, KUMBALAM, KOCHI - 682506, PIN - 682506 BY ADVS. RAJESH VIJAYENDRAN ASOK CHACKO THOMAS SIDHIQUL AKBAR K.A.(K/1289/2016) THIS ARBITRATION REQUEST HAVING COME UP FOR ADMISSION ON 01.08.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

What presents in this Arbitration Request is disputes between the applicant and the respondent - Choice School - in which she was employed as an Ayah.

2. This Arbitration Request is opposed by Sri.Rajesh Vijayendran - learned counsel appearing for the respondent - School, saying that the order issued by his client is amenable

to a statutory Appeal before the

applicant cannot invoke the jurisdiction of this Court under Section 11 of the Arbitration and Conciliation Act,1996 (Act for short), without having exhausted the alternative remedy.

3. Interestingly, Sri.S.Nirmal - learned

Standing Counsel for the CBSE - which Authority was impleaded suo motu by this Court on the party array - also affirmed that the applicant obtains an effective statutory remedy against the order of her termination before the SMC, but left it to this Court to take a final decision thereon.

4. I have examined the pleadings on record and have also gone through the materials produced by the rival sides.

5. The disputes, as impelled by the

appellant, are stated to be with respect to the terms of Annexure-A2 Agreement. The genesis of the said disputes is that the applicant has been terminated from

service by the School; and she asserts that this is contrary to the applicable Rules and Regulations. However, since it is now conceded that there is an alternative statutory remedy available to the applicant, to challenge the said order before the SMC as per the Bye Laws of the CBSE, I am certain that she ought to have invoked the same, before having approached

this Court through this Arbitration Request. This is because, it is well settled that a request for Arbitration is possible only after the statutory remedies are exhausted.

In the afore circumstances and since both parties now agree that this Arbitration Request can be disposed of, leaving liberty to the applicant to invoke her alternative remedies, I close it, reserving the afore liberty to the applicant to approach the appropriate Appellate Authority - namely the School Management Committee, constituted under the provisions of the Affiliation Bye Laws of the CBSE. If this is done by the applicant, through a statutory Appeal against the order of termination within a period of two weeks from the date of receipt of a copy of this order, the same shall be deemed to have been filed in time and decided by the said Authority, after hearing both sides. I record that the learned counsel for the School has agreed to this. Needless to say, the right of the applicant to approach this Court again with a fresh Arbitration Request, after the afore alternative remedy is exhausted, is fully reserved; and for such purpose, the rival contentions are left open. Sd/- DEVAN RAMACHANDRAN SAS JUDGE APPENDIX OF AR 185/2022

PETITIONERS ANNEXURES Annexure-A1 TRUE COPY OF AN ORDER BEARING NO.CS/APT/93-94 DATED 07.05.1993, ISSUED BY THE RESPONDENTS. Annexure-A2 TRUE COPY OF THE CONTRACT OF SERVICE ENTERED INTO BETWEEN THE APPLICANT AND THE GOVERNING BODY OF THE RESPONDENT-SCHOOL DATED 01.02.1994. Annexure-A3 TRUE COPY OF THE ORDER BEARING REFERENCE NO.CS/ASP/94-95 DATED 15.06.1994, ISSUED BY THE SECOND RESPONDENT. Annexure-A4 TRUE COPY OF THE MEMORANDUM OF CHARGES BEARING NO.CF/HR/2017/01 DATED 09.06.2017, ISSUED BY THE GENERAL MANAGER OF THE

RESPONDENT-SCHOOL. Annexure-A5 TRUE COPY OF THE PENALTY ORDER OF DISMISSAL FROM SERVICE BEARING NO.NIL DATED 10.05.2019 ISSUED BY THE CHOICE FOUNDATION. Annexure-A6 TRUE COPY OF THE REQUEST MADE BY THE APPLICANT DATED 21.10.2019 ADDRESSED TO THE 1ST RESPONDENT. Annexure-A7 A true copy of the judgement of the Hon'ble Apex Court in SUMO No.3/2020 and connected Miscellaneous Applications dated 10.01.2022

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com