

Abdu Vs. Appassi Amma

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Court : Kerala

Decided On : Nov-27-1962

Reported in : (1963)IILLJ209Ker

Judge : P. Govindan Nair, J.

Appellant : Abdu

Respondent : Appassi Amma

Judgement :

P. Govindan Nair, J.

1. I entertain no doubt on the law or justice of this case' said Bast, O.J., in Beeston v. Collyer 4 Blng. 309, the Court of Common Pleas, a case in which the facts were similar to that here. I too entertain no doubt regarding the law or justice of this case. But It is urged by counsel for the appellant that the view that an employee like the plaintiff, a school teacher, is entitled to a year's notice is open to question. I must, therefore, consider this contention.

2. The appellant is the manager of a school called D.M.S., Pottiohira, and the respondent, the plaintiff, was associated with the school from 28 Mithunam 1122 though there was a break between 17 Meenom 1123 and 6 Kanni 1125. She was dismissed from service on 80 March 1950 and it has been concurrently found by the Courts below that this dismissal is unwarranted. The Courts below have held

that at least one year's notice should have been given to the plaintiff and have awarded compensation on that basis.

3. The Travancore-Cochin High Court, in a ruling reported in *Chaldean Syrian Church v. Francis* 1954 K.L.T. 33, had occasion to consider a similar question and what their lordships observed in that judgment is apposite:

Normally the work of a teacher is to commence at the beginning of the academic year and has to continue at least to the end of that year. Fresh engagements could therefore be expected to be obtained under ordinary circumstances only at the beginning of each year. Such being the nature of the teacher's post held by the plaintiff, the duration of the service has to be taken to be one continued from year to year. Such a service cannot be put on a par with the service of domestic servants or of other menials which could be terminated at a month's notice.

4. Their lordships awarded the wages for one year holding that at least a year's notice should have been given before the services of the plaintiff in that case were terminated.

5. The concurrent findings of the Courts below that the dismissal of the plaintiff is unwarranted is not disputed. Reference must be made also to the fact that employees such as the plaintiff are governed by a Code, the Education Code, that was in existence in the Cochin State. Rule 57 of that Code provided that

No licensed teacher shall be suspended or dismissed from an aided school except for good causes.

6. The plaintiff, when she was dismissed, was fairly young being less than thirty years old and should normally have expected security of service which would have lasted for several years. This has been put a stop to by the appellant without any Justifying reason. It is notorious that in this State it is not easy to obtain employment easily. I do not consider this an immaterial factor in determining the duration of the notice that should be issued for termination of service.

7. The Madras High Court has taken the same view as that taken by the Travancore-cochin High Court in *Chaldean Syrian Church v. Francis* 1954 K.I.T.

33 (vide supra). The decision is reported in *Minakshi Mills, Ltd. v. Anantarama Ayyar* A.I.R. 1930 Mad. 654. I respectfully follow the views expressed in these cases and I am unable to agree with the view taken by the Rangoon High Court in *Thein Pe v. V.P.De'Souza* A.I.R. 1929 Rangoon 167 that the service of a teacher in a school must be taken to be one from month to month.

8. No other question arises in this appeal and the appeal has to be dismissed. I do so and direct the appellant to pay the costs of the respondent.

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