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

Annie Francis Vs. D.E.O.

Annie Francis Vs. D.E.O.

SooperKanoon Citation : sooperkanoon.com/725049

Court : Kerala

Decided On : Jun-23-2005

Reported in : 2005(3)KLT238

Judge : J.B. Koshy and; K.T. Sankaran, JJ.

Acts : Kerala Education Act, 1958; Kerala University Act, 1969; Kerala Education Rules, 1959 - Rules 2, 6, 10, 11, 14, 34, 44 and 44(1); Constitution of India - Articles 30, 30(1), 141 and 143(1)

Appeal No. : W.A. No. 1065 of 2005

Appellant : Annie Francis

Respondent : D.E.O.

Advocate for Def. : T.M. Abdul Latheef,; V.M. Kurian,; A.V. Thomas,;

Advocate for Pet/Ap. : K.C. John, Sr. Adv.,; D. Sreekumar and; D. Somasundaram

Disposition : Appeal dismissed

Judgement :

J.B. Koshy, J.

1.Whether the management of an educational institution established by a minority community has a right to appoint a qualified high school teacher (HSA) of its choice as headmaster without strictly looking into the seniority, claiming protection under Article 30(1) of the Constitution of India, is the main question to be decided in this case. A vacancy of headmaster arose in the second respondent's school with effect from 1.4.1999. At that time, petitioner/appellant was working as High School Assistant (Malayalam) in the second respondent's school owned by a Church. She is a graduate in Malayalam. She has passed B.Ed. and has got 19 years of service. Third respondent got inter-management transfer to the school as provided under the Kerala Education Rules. She is also fully qualified (graduation with B.Ed.) to become headmistress. She has seven years of teaching experience as UPSA and 15 years and ten month's experience as HSA. Management appointed third respondent as the Headmistress with effect from 1.4.1999 by Ext.P2(a) order dated 1.4.1999 and the matter was informed to the District Educational Officer. Even before the appointment of third respondent as headmaster, according to the petitioner/appellant, she filed Ext.P3 complaint dated 1.3.1999 apprehending that she may not get appointment. She also filed Ext.P1 complaint before the Manager. Since Ext.P3 was not considered, she approached this Court questioning the appointment of third respondent as headmistress with effect from 1.4.1999. Her contention is that she is entitled to be appointed as per Rule 44 Chapter XIVA of the Kerala Education Rules (for short 'KER') as she is senior. It is also submitted that she is also a member of the minority community and even though second respondent institution is a minority institution, the management cannot overlook her claim. The learned Single Judge dismissed the Writ Petition following the dictum of the Supreme Court in Board of Secondary Education and Teachers Training v. Joint Director of Public Instruction, Sagar and Ors., (1998) 8 SCC 555. The status of the second respondent as a minority institution was not questioned in the Writ Petition. Though it was raised in the Writ Appeal, it was not seriously pressed as the school is owned by the Church and since in her earlier representations and in the Writ Petition her contention was that second respondent institution is a minority institution. The contention of the appellant/petitioner is that she is also a member of the minority community and Article 30 of the Constitution of India will not enable the management to ignore the

senior qualified candidates while giving appointment to the third respondent. It is also not disputed that the inter-management transfer was effected according to law. The only question to be decided is what is the extent of right under Article 30(1) of the Constitution vis-a-vis Rule 44 of Chapter XIV-A of KER.

2. It is the contention of the learned counsel for the appellant that even though Supreme Court decided the matter in (1988) 8 SCC 555 that the minority management is not bound to appoint the seniormost qualified teacher, but has right to appoint a candidate of its own choice provided he is qualified, a Division Bench of this Court took a different view in Varkey v. State of Kerala, 2005 (2) KLT 468, and all earlier Full Bench and Division Bench decisions of this Court should be held to be not good law in view of the observations of the Supreme Court in T.M.A. Pai Foundation and Ors. v. State of Karnataka and Ors., 2003 (3) KLT (SC) (SN) 118 : AIR 2003 SC 355. The learned counsel for the second respondent school submits that the decision of the Division Bench of this Court in Varkey's case (supra) is per incuriam. Various decisions of this Court and of the Hon'ble Supreme Court directly on the point explaining the very same provisions of the Kerala Education Rules on appointment of headmaster by a minority institution were not considered in Varkey's case. None of the observations in T.M.A. Pai's case (supra) expressly or impliedly overruled the earlier decisions of this Court. The impugned judgment of the learned Single Judge is based on an Apex Court decision. In Kausalya Devi Bogra v. Land Acquisition Officer, (1984) 2 SCC 325 at 332, the Supreme Court ruled in no unmistakable terms:

'... in view of the provisions of Article 141 of the Constitution, all Courts in India are bound to follow the decisions of this Court'.

Any decision rendered by any Court if in conflict with a decision of the Supreme Court:

'would be non-est and absolutely without jurisdiction and violative of Article 141 of the Constitution of India'. (Vide Krishna Singh v. Mathura Ahir, AIR 1982 SC 686 at 689.)'

It was also argued that a decision of the Full Bench is binding on Division Bench and unless it is directly overruled by a Larger Bench or Apex Court, a subsequent Division Bench cannot say that it is impliedly overruled and is not good law. We are of the opinion that if the issue to be considered is directly covered by the decision of the Apex Court, we need not refer the matter to the Full Bench as the Apex Court decisions are binding on us. Hence, we may now consider the various statutory rules regarding appointment of headmaster and the decisions of the Apex Court and Full Bench and Division Bench of this Court on the point in question and whether those decisions were impliedly overruled.

3. Rule 44(1) of Chapter XIVA of KER reads as follows:

'The appointment of headmasters shall ordinarily be according to seniority from the seniority list prepared and maintained under clauses (a) and (b) as the case may be of Rule 34. The manager will appoint the headmaster subject to the rules laid down in the matter. A teacher if he is aggrieved by such appointment will have the right of appeal to the Department'.

Qualifications of headmasters are specified in Rule 2, Chapter XXXI, KER. Powers of the headmaster in the matter of admission and overall supervision and management of the school are also pivotal. His powers are also mentioned in KER. Rule 6, Chapter IX authorises the headmaster to suspend or dismiss a student. The rule reads as follows:

'6. Suspension and dismissal:

(1) Any pupil who is deliberately insubordinate or mischievous or guilty of fraud or malpractice in connection with examinations or who is found guilty of any other offence under these rules or who by his proved conduct is in the opinion of the Headmaster likely to cause an unwholesome influence on other pupils, may be, according to the degree of offence, censured, suspended or dismissed by the Headmaster. The Headmaster of a Secondary School may also for adequate reasons impose fines on pupil studying in Standards VIII to X.

XXX XXX XXX

Note:-- (i) Temporary removal and permanent removal from rolls for misconduct also mean suspension and dismissal respectively under this Rule. 'Rolls' means mainly the Admission Register and includes also the Attendance Register'.

Rule 10 of Chapter IX further provides that the headmaster is responsible for discipline. It reads as follows:

'10. Headmaster responsible for discipline:--

(1) The Headmaster of a school shall be responsible for all matters connected with discipline in the school.

(2) The Headmaster may require any of his assistant teachers during holidays or outside school hours on week days, to do any work in connection with the school....'

4. Duties of Headmaster are laid down in Rule 11 of Chapter IX. It reads as follows:

'11. Headmaster's duties:-- The Headmaster's duties shall include the following:--

(i) to see that the rules and orders issued by the Department and Government are complied with;

(ii) to maintain discipline in the school;

(iii) to organise work in the school by framing time-tables, distributing work among the assistants, conducting tests and examinations and encouraging extracurricular activities;

(iv) to effect promotions of pupils from Standard to Standard in accordance with the prescribed rules;

(v) to supervise the work of teachers;

XXX XXX XXX.'

These Rules show that the headmaster is the head of the institution. He has to maintain discipline among the students and supervise the work of the teachers. Overall supervisory functions are done by the headmaster. An educational agency which manages the institution or the manager is not the man on the spot and headmaster has the administrative control. Under Rule 14 of Chapter IX, headmaster is also obliged to maintain the supervision diary in respect of every teacher.

5. The Kerala Education Rules, 1959 came into force from 1.6.1959. Eversince the enactment of Kerala Education Act, 1958 and rules framed thereunder, there were disputes regarding power of appointment of headmaster in aided private schools established by minority communities and the matter is settled by a series of decisions of various Division Benches and Full Bench of this Court. The consistent view of the Courts was that the aided minority institutions have got right to establish and administer schools subject to reasonable regulations and rules framed by the Government in this regard. But, such rules shall not infringe the right of the management in the administration of the School. When Kerala Education Bill, 1957 was passed by the Legislative Assembly, Governor sent the Bill for consideration to the President and the President referred the matter to the Apex Court for opinion under Article 143(1) of the Constitution of India. The matter was considered by a seven member Bench of the Apex Court and gave the opinion In Re: the Kerala Education Bill, 1957, 1958 KLT 465 (SC) : AIR 1958 SC 956. It is also observed by S.R. Das, C.J. as follows:

'34... It is not for this Court to question the wisdom of the supreme law of the land. We the people of India have given unto ourselves the Constitution which is not for any particular community or section but for all. Its provisions are intended to protect all, minority as well as the majority communities. There can be no manner of doubt that our Constitution has guaranteed certain cherished rights of the minorities concerning their language, culture and religion. These concessions must have been made to them for good and valid reasons.... So long as the Constitution stands as it is and is not altered, it is, we conceive, the duty of this Court to uphold the fundamental rights and thereby honour our sacred obligation to the minority communities who are of our own'.

It was further held that the above right under Article 30(1) will not preclude regulations in the true interest of efficiency of instruction, discipline, health, sanitation, morality, public order and the like; but the right of establishing and managing educational institutions is protected and it should be effective and that right cannot be taken away or interrupted by any regulation. This was reiterated by the Constitution Bench of the Apex Court in Rev. Sidhrajbhai Sabbai and Ors. v. State of Gujarat and Anr., AIR 1963 SC 540. Authorities can prescribe qualifications of teachers and minimum requirement for setting up educational institutions, curriculum to be taught etc. in the interest of efficiency, standard of education, discipline etc. but without interfering in the administration.

6. It was also consistently held that the post of headmaster is of pivotal importance in the management of an educational institution and the management has got freedom to choose headmaster provided the candidate is qualified as per the rules. After considering those decisions, a Full Bench of this Court in A.M. Patroni v. E.C. Kesavan, 1964 KLT 791 FB, reiterated the above position. In the words of eminent Chief Justice Shri. M.S. Menon the position is as follows:

'14. The post of the headmaster is of pivotal importance in the life of a school. Around him wheels the tone and temper of the institution; on him depends the continuity of its traditions, the maintenance of discipline and the efficiency of its teaching. The right to choose the headmaster is perhaps the most important facet of the right to administer a school; and we must hold that the imposition of any trammel thereon -- except to the extent of prescribing the requisite qualifications and experience -- cannot but be considered as a violation of the right guaranteed by Article 30(1) of the Constitution. To hold otherwise will be to make the right 'a testing illusion, a promise of unreality'.

Then, at paragraph 17 of the judgment it was observed as follows:

'17. The word 'ordinarily' in Rule 44 gives a certain amount of elasticity to that rule. It may be possible to say that one of the 'extraordinary' circumstances visualised by the rule is the appointment of headmasters in institutions like the one before us'.

The above decision was consistently followed by this Court thereafter. Again, when the Kerala University Act, 1969 was passed, incorporating certain clauses restricting the right of the management and administration of minority management and those provisions were declared ultra vires by the Kerala High Court. When the State and University challenged the same, appeal was disposed by the six member Bench of the Apex Court. The Apex Court in State of Kerala v. Very. Rev. Mother Provincial, 1970 KLT 630 : 1970 (2) SCC 417, held that:

'8. Article 30(1) has been construed before by this Court. Without referring to those cases it is sufficient to say that the clause contemplates two rights which are separated in point of issue. The first right is the initial right to establish institutions of minority's choice....

9. The next part of the right relates to the administration of such institutions. Administration means 'management of the affairs' of the institution. This management must be free of control....

Exemption to this is only for keeping up the standards of education. The Court observed as follows:

'10. ... Yet the right of the State to regulate education, educational standards and allied matters cannot be denied. The minority institutions cannot be allowed to fall below the standards of excellence expected of educational institutions, or under the guise of exclusive right of management, to decline to follow the general pattern. While the management must be left to them, they may be compelled to keep in step with others. These propositions have been firmly established in the State of Bombay v. Bombay Education Society, (1955) 1 SCR 568, The State of Madras v. S.C. Dorairajan, (1951) SCR 525, In re the Kerala Education Bill, 1957, 1958 KLT 465 (SC) : (1959) SCR 995, Sidharajbhai v. State of Gujarat, (1963) 3 SCR 837, Katra Education Society v. State of U.P. and Ors., (1966) 3 SCR 328, Gujarat University, Ahmedabad v. Krishna Ranganath Mudholkar and Ors., (1963)Suppl 1 SCR 112, and Rev. Father W. Proost and Ors. v. State of Bihar, (1969) 2 SCR 73. In the last case it was said that the right need not be enlarged nor whittled down. The Constitution speaks of administration and that must fairly be left to the minority institutions and no more. Applying these principles we now

consider the provisions of the Act.'

7. Right of the minority management to appoint qualified teachers and head of educational institutions was again considered by various Apex Court decisions in The Ahmedabad St. Xavier's College v. State of Gujarat, AIR 1974 SC 1389, it was observed by the nine-member Bench of the Apex Court as follows:

'It is upon the principal and teachers of a college that the tone and temper of an educational institution depend. On them would depend its reputation, the maintenance of discipline and its efficiency in teaching. The right to choose the principal and to have the teaching conducted by teachers appointed by the management after an overall assessment of their outlook and philosophy is perhaps the most important facet of the right to administer an educational institution.'

In Gandhi Faiz-e-am College, Shahjahanpur v. University of Agra and Ors., AIR 1975 SC 1821, wherein speaking for the Apex Court Mr. V.R. Krishna Iyer, J. observed as follows:

'This strategic appointee must be chosen by the management with sedulous care and his choice should not be 'externalised' by regulations. All right. But for the excellent reason that the principal is the vital, vibrant and luscent presence within the educational campus, no administration can bring out its best in the service of the institution sans the principal. To alienate him is to self-inflect wounds; to associate him is to integrate the academic head into the administrative body for the obvious betterment of managerial insight and proficiency. He is no stranger to the college but the commander appointed by the management itself '.

8. It was held by single benches in Joseph v. State of Kerala, 1985 KLT 946 and Fr. Francis Fernandez v. D.E.O. Ernakulam, 1988 (2) KLT 403, that minority management can overlook the claim of a senior only in extra-ordinary circumstances. Those decisions were overruled by a Division Bench of this Court in Manager, Corporate Educational Agency v. State of Kerala, 1990 (2) KLT 240. Justice T.L. Viswanatha Iyer, who gave the decision of the Court, observed as follows:

'35. In the light of the above discussion, we hold that the decisions in Joseph v. State of Kerala, 1985 KLT 946 and Fr. Francis v. District Educational Officer, 1988 (2) KLT 403, in so far as they hold that managements of minority educational institutions are bound 'ordinarily' to appoint the seniormost teacher as Headmaster as enjoined in Rule 44 of Chapter XIV(A) of the Rules are not correctly decided. The circular Ext.P3 also is invalid in so far as it directs that institutions imparting secular education or receiving aid from the State cannot claim minority status and that they have to comply with Rule 44 while appointing headmasters.

36. All the same time, any choice of Headmaster, even by the minority, has to satisfy the requirements of qualifications and experience as also the essential qualities necessary for making a good Headmaster. It will always be open to the educational authorities to consider whether, the appointee of the minority educational agency is one qualified, competent or experienced to be a Headmaster. Power is vested in the educational authorities, on these limited grounds, to refuse approval to any appointment of Headmaster made by the minority educational agency. All that we hold is that Rule 44 does not operate in full force against a minority educational agency, to insist that in the absence of extra-ordinary circumstances, the seniormost teacher should be appointed as the Headmaster'.

The above decision was followed in Henry Gomez v. Government of Kerala, 1993 (2) KLT 883, wherein it was observed as follows:

'5. The right of the management, which is entitled to the protection of Article 30(1) of the Constitution to appoint headmasters of its choice irrespective of seniority in educational institution established and administered by it has been recognised by this Court and the Supreme Court'.

The Court referred to various decisions of the Supreme Court and of this Court for coming to the above conclusion. The above decision of law is consistently followed by this Court for the last several decades as the matter was already settled by the Full Bench in 1964 in Patroni's case (supra).

9. Right of administration of the minority institution was again reiterated by the Apex Court in St. Stephen's College v. The University of Delhi, AIR 1992 SC 1630. The Apex Court considered the right of minority institution and appointment of headmaster under Rule 44 of Chapter XIV-A of KER which is the question discussed in issue in this case, in N. Ammad v. Manager, Emjay High School and Ors., 1998 (2) KLT 828 : (1998) 6 SCC 674, and Mr. K.T. Thomas, J. on behalf of the Court held as follows:

'28. Thus the management's right to choose a qualified person as the Headmaster of the School is well insulated by the protective cover of Article 30(1) of the Constitution and it cannot be chiselled out through any legislative act or executive rule except for fixing up the qualifications and conditions of service for the post. Any such statutory or executive fiat would be violative of the fundamental right enshrined in the aforesaid article and would hence be void'.

The above judgment was rendered after meticulously considering all previous Constitution Bench decisions of the Apex Court. Even though in Varkey's case (supra) the Court referred to the above decision, while considering the question of determining minority status, it did not notice the above quoted observations and findings directly on the point. Apex Court also approved the observations of the Division Bench in 1990 (2) KLT 240 and of the Full Bench reported in 1964 KLT 791. That was not brought to the notice of the Bench while deciding Varkey's case (supra). Full Bench and Division Bench decisions specifically quoted and approved by the Apex Court cannot be held to be 'not good law' subsequently by a Division Bench of this Court, as those judgments attained the effect of law declared by the Apex Court.

10. Again, the Apex Court considered a similar question in the appointment of principal of a college run by a minority institution in Board of Secondary Education & Teachers Training v. Jt. Director of Public Instructions, Sagar and Ors., (1998) 8 SCC 555, and held that the management has a right to appoint the head of the educational institution of its own choice provided the teacher is qualified according to the Rules and that right cannot be taken away. The Apex Court held as follows:

'The question is whether the management is not entitled to select a person of their choice. The decisions of this Court including decision in State of Kerala v. Very. Rev. Mother Provincial, 1970 KLT 630 : (1910) 2 SCC 417 and Ahmedabad St. Xavier's College Society v. State of Gujarat, (1974) 1 SCC 717, make it clear that this right of the minority educational institution cannot be taken away by any rules or regulations or by any enactment made by the State. We are, therefore, of the opinion that the High Court was not right in holding otherwise. The State has undoubtedly the power to regulate the affairs of the minority education institutions also in the interest of discipline and excellence. But in that process, the aforesaid right of the management cannot be taken away, even if the Government is giving hundred per cent grant. We need not go into any other question in this appeal'.

11. Now, the question is whether the decisions of the Full Bench in 1964 KLT 791, Division Bench decision in 1990 (2) KLT 240 and 1993 (2) KLT 883 and of the Supreme Court in 1998 (2) KLT 828 : (1998) 6 SCC 674 or (1998) 8 SCC 555 declaring and recognising the right of the minority communities in appointing a qualified person as head of the aided educational institution are in any way impliedly overruled in T.M.A. Pai's case (supra). In Punjab National Bank v. R.L. Vaid and Ors., 2004 AIR SCW 4708 and in Bharat Petroleum Corporation Ltd. and Anr. v. N.R. Vairamani and Anr., 2004 AIR SCW 5457, it was held that the words of the judgment cannot be interpreted as words of Statute and it is binding only with respect to similar factual situation. Main question decided in T.M.A. Pai's case (supra) was the right of the aided and un-aided, minority and non-minority institutions in giving admission to professional courses. Right of appointment of the head of the institution was not in issue and (1998) 6 SCC 674 and (1998) 8 SCC 555 were not considered in T.M.A. Pai's case. The Apex Court in the above case at paragraph 125 quoted with approval paragraph 54 of the judgment in St. Stephen's College's case (supra):

'54. The minorities whether based on religion or language have the right to establish and administer educational institutions of their choice. The administration of educational institutions of their choice under Article 30(1) means 'management of the affairs of the institution'. The management must be free from control so that the founder or their nominees can mould the institution as they think fit, and in

accordance with their ideas of how the interests of the community in general and the institution in particular will be best served. But the standard of education are not a part of the management as such. The standard concerns the body politic and is governed by considerations of the advancement of the country and its people. Such regulations do not bear directly upon management although they may indirectly affect it. The State, therefore, has the right to regulate the standard of education and allied matters. Minority institutions cannot be permitted to fall below the standards of excellence expected of educational institutions. They cannot decline to follow the general pattern of Education under the guise of exclusive right of management. While the management must be left to them, they may be compelled to keep in step with others'. (at page 573 of (2002) 8 SCC 481)

The Apex Court in T.M.A. Pai's case (supra) observed that with regard to the right of admitting students in minority institutions which receive grant-in-aid, reasonable regulations can be prescribed by the State Government for fixing the number of students from minority communities and to secure transparency. Even though multiple opinions were expressed in the above case, partly concurring and partly differing with the majority judgment, 11 questions were formulated and answered in the leading judgment. (At pages 587 to 591 of (2002) 8 SCC 481.) We quote question No. 3 and its answer given in the majority judgment pronounced by the Chief Justice on behalf of six Hon'ble Judges:

'Q. 3(b) To what extent can professional education be treated as a matter coming under minorities' s rights under Article 30?

A. Article 30(1) gives religious and linguistic minorities the right to establish and administer educational institutions of their choice. The use of the words 'of their choice' indicates that even professional educational institutions would be covered by Article 30'.

Answering Question No. 4, the Apex Court held as follows:

'A minority institution does not cease to be so, the moment grant-in-aid is received by the institution. An aided minority educational institution, therefore, would be entitled to have the right of admission of students belonging to the minority group

and at the same time, would, be required to admit a reasonable extent of non-minority students, so that the rights under Article 30(1) are not substantially impaired and further the citizens' rights under Article 29(2) are not infringed'.

With respect to the specific question (Question No. 5(c)) regarding appointment of teachers and principals, it was answered as follows:

'The State or other controlling authorities, however, can always prescribe the minimum qualification, experience and other conditions bearing on the merit of an individual for being appointed as a teacher or a principal of any educational institution'.

These are the only restrictions that can imposed by regulation. For appointment of headmasters, Government can prescribe minimum qualification, experience etc. and minority institutions are bound by the same. There are no observations in the judgment of T.M.A. Pai's case impliedly overruling the decision of the Full Bench in 1964 KLT 791 and 1990 (2) KLT 240 or 1998 (2) KLT 828 : (1998) 6 SCC 674, (1998) 8 SCC 555 and other similar decisions. As held by the Apex Court, post of headmaster is pivotal to the administration of a school and minimum qualifications, experience etc. prescribed as per rules are applicable to the minority institutions. Any further restriction would be an infringement of the right of the management. In Islamic Academy of Education and Anr. v. State of Karnataka and Ors., 2003 (3) KLT (SC) (SN) 118 : AIR 2003 SC 3724, the Supreme Court explained T.M.A. Pai's case and it also reiterated the right of the minority in establishing and administering educational institutions and none of the observations in the above case also would indicate that the earlier decision of the Supreme Court in (1998) 6 SCC 674 is overruled.

12. The Supreme Court in St. Thomas UP School v. Commissioner and Secretary to Government., 2002 (1) KLT 655 (SC), and a Division Bench of this Court in Haji Abdul Salam v. State of Kerala, 2004 (3) KLT 826, upheld the minority management's action of selecting a headmaster other than the seniormost teacher even though the question decided in those cases were regarding the minority status to the establishment. In Brahmo Samaj Education Society and Ors. v. State of West Bengal and Ors., 2004 (2) KLT 742 (SC) : 2004 AIR SCW 3189, the Apex

Court held that the right of the institution to appoint candidates of its choice from among the qualified candidates is part of administration provided the candidates are fully qualified, and the right of appointment cannot be interfered with. Appointment of headmaster is not a mere promotion. Rule 44 also speaks about 'appointment' of headmaster. Since the Full Bench decision of this Court referred in 1964 KLT 791 and the Division Bench decision in 1990 (2) KLT 240 were upheld by the Apex Court in N. Ammad's case (supra) followed by other decisions of the Supreme Court, this Court cannot hold that those decisions are not good law. Normally, we would have referred the matter to the Full Bench in view of the Division Bench decision in Varkey's case. But, here, there are direct rulings by the Apex Court directly on the point explaining the right of minority institutions with regard to appointment of headmaster under Rule 44 which were not brought to the notice of the Division Bench. We follow the Supreme Court judgment and dismiss the appeal.

We also note that third respondent retired from service on 31.3.2003 on the close of the academic year 2003. Even though the school was closed for mid-summer vacation, headmaster has administrative work regarding admission of students, promotion of students etc. and petitioner was appointed as headmistress with effect from 1.4.2003 and she was superannuated on 30.4.2003. She also retired as headmistress. Taking all these facts also, we find that no interference is required in the matter.

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