

Krishna Devi. Vs. Sanni Devi and ors

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Court : Himachal Pradesh

Decided On : Mar-03-2011

Judge : Kurian Joseph; V.K. Ahuja, JJ.

Appeal No. : LPA No. 44 of 2011.

Appellant : Krishna Devi.

Respondent : Sanni Devi and ors

Advocate for Def. : Mr. Narender Sharma; Mr. R.K. Bawa, Adv.

Advocate for Pet/Ap. : Mr. Javed Khan, Adv.

Judgement :

1. Respondent Krishna Devi in CWP No. 3895 of 2010 is the appellant herein. The issue pertains to the action taken against the private respondent to terminate her from the post of Mid Day Meal Worker at the Government Primary School, Chaura, Education Block, Karsog, District Mandi. According to the appellant, there were sufficient grounds to terminate her from service and hence the writ petition should have been dismissed.

2. The Learned Single Judge having gone through the record, disposed of the writ petition, settling the principle that in case of retrenchment it should be on the basis of last come first go. There was also a direction to pay costs by the appellant herein and the P.T.A.

3. It is the contention of the appellant that there were certain serious complaints against the writ petitioner and hence only the action was taken for removing her from service. According to the writ petitioner/private respondent, the alleged complaints were put up at the instance of the husband of the private respondent, who was the President of the P.T.A., to retain his wife since as per the guidelines only one can be retained in view of the fact that the number of children is below 25.

4. Having heard the learned counsel appearing on both the sides and also the learned Dy. Advocate General, we are of the view that in view of the allegations and counter allegations, it would be appropriate if the matter is looked into by the Deputy Director, Elementary Education, Mandi, if moved by the appellant.

5. Therefore, this appeal is disposed of as follows: The retrenchment of Mid Day Meal Worker in the school, as rightly held by the learned Single Judge, shall only be on the principle of last come first go. However, in case there is any other valid ground for taking appropriate disciplinary action against any employee, the judgment shall not stand in the way of the action thus to be taken in accordance with law.

6. In view of the allegations and counter allegations in the present case, we make it clear that it will be open for the appellant herein to approach the Deputy Director of Elementary Education, Mandi within two months from today in which case the matter be duly considered by the said authority with notice to the appellant, PTA and the private respondent and appropriate action in the matter be taken adverting to the contentions raised by the parties expeditiously.

7. Till the orders passed as above, the working arrangements as on today in the school shall continue. In that view of the matter the order regarding stay in the appeal is vacated.