

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
CONTEMPT PETITION(CIVIL) NO.51 OF 2008

IN
CIVIL APPEAL NO.640 OF 2007

SUBASH GOPALRAO LINGAWAR **Petitioner(s)**

VERSUS

SADASHIV SHIWAJI DONADKAR & ORS. **Respondent(s)**

ORDER

Pursuant to the order passed by us on 18th August, 2008, Shri Vijay V. Meshram, the Education Officer, Zilla Parishad, Sonapur Complex, District Gadchiroli, Maharashtra, the alleged contemnor No.3, is personally present in Court. Appearing on his behalf, Mr. Shekhar Naphade, learned senior counsel, has brought to our notice the relevant rules of the Maharashtra Employees of Private Schools Rules, 1981. The relevant rule, which has been placed by Mr. Naphade is rule 35, which deals with conditions of suspension and reads as follows:-

**“35.Condition of suspension:(1)In cases where the
Management desires to suspend an employee, he**

shall be suspended only with the prior approval of the appropriate authority mentioned in rule 33.

(2) The period of suspension shall not exceed four months except with the prior permission of such appropriate authority.

(3) In case where the employee is suspended with prior approval, he shall be paid subsistence allowance under the scheme of payment through Co-operative Banks for a period of four months only and thereafter, the payment shall be made by the Management concerned.

(4) In case where the employee is suspended by the Management without obtaining prior approval of the appropriate authority as aforesaid, the payment of subsistence allowance even during the first four months of suspension and for further period thereafter till the completion of inquiry shall be made by the Management itself.

(5) The subsistence allowance shall not be withheld except in cases of breach of provisions of sub-rule (3) or (4) of rule 33."

As will appear from sub-rule (2), the period of suspension of an employee is not to exceed four months except with the prior permission of the appropriate authority. Sub-rule (3) indicates that in case the employee is suspended with prior approval, he shall be paid subsistence allowance under the scheme of the payment for a period of four months only and thereafter, the payment shall be made by the Management concerned. Sub-rule (4) indicates that where the employee is suspended by the Management without obtaining prior approval of the appropriate authority, the entire payment of subsistence allowance would have to be borne by the Management itself.

It has been contended by Mr. Naphade that no prior approval had been obtained from the authorities before any order of suspension was given effect to.

On behalf of the school authorities, it has been submitted by Mr. Manish Pitale, learned counsel, that by virtue of the order passed on 07/02/2007 out of which the contempt petition arises, the petitioner was to be treated as being under suspension and would be entitled to subsistence allowance as per rules with effect from the date of termination of his services. According to Mr. Pitale, the petitioner had never been placed under suspension by the school authorities, but his suspension took effect having regard to the order passed by this Court on 07/02/2007, and hence the question of obtaining sanction under the rules did not arise.

Learned counsel appearing for the petitioner, however, contended that since in our order we had directed that the petitioner was to be treated to be under suspension with effect from the date of termination of his services, the petitioner would be entitled to subsistence allowance from the year 2000 when his services were terminated.

Having heard learned counsel for the respective parties, we have to keep in mind the fact that the contempt proceeding arises out of the said order of 07/02/2007 and the petitioner was to be treated to be under suspension only by virtue of the order passed by this Court. In our view, since the petitioner was placed under suspension with effect from 07/02/2007 by virtue of the order passed

by this Court, the period of suspension must be computed from the date of the order, and not with retrospective effect from the date of termination of his services.

From the submissions made on behalf of the alleged contemnor of the parties, and the affidavits filed, it is difficult to arrive at a finding that there was any deliberate or willful intention to violate the directions passed by this Court on 07/02/2007, as there was some confusion regarding the interpretation of rule 35 of the above-mentioned rules.

However, in order to do justice to the parties, we dispose of the contempt petition by taking recourse to sub-rule(3) of rule 35 of the above-mentioned rules, and direct respondent 1, the Education Officer, Zilla Parishad, Gadchiroli, Maharashtra, to pay to the petitioner a lump sum amount of Rs.30,000/- towards subsistence allowance for a period of four months. In addition, we also direct the school authorities to pay to the petitioner a further sum of Rs.70,000/-. Such payments are to be made to the petitioner within four weeks from date.

.....J.
(ALTAMAS KABIR)

.....J.
(MARKANDEY KATJU)

NEW DELHI;
September 05, 2008.

