

THE MANAGING COMMITTEE OF M.M. DEGREE
COLLEGE, MODI NAGAR.

v.

VICE-CHANCELLOR, MEERUT UNIVERSITY AND ORS.

MARCH 17, 1997

[K. RAMASWAMY AND G.T. NANAVATI, JJ.]

Service Law:

Removal from service—Head of Department of Statistics—Went on foreign assignment for one year with prior approval of Management of the College—After expiry of stipulated period Management asked the teacher to join duty—He did not join—An inquiry into unauthorised absence of the teacher conducted—He did not participate—Management dismissed him subject to confirmation of Vice-Chancellor—Vice-Chancellor asking the Management to give an opportunity to the teacher—Intimation sent by the Management to the teacher—Later when he came to India he was not allowed to join duty—He filed writ petition—High Court allowed the petition holding that since the approval of termination was not given earlier, Vice-Chancellor had no power to review the order and accord sanction for termination—Held, approval sought by Management was after expiry of period of foreign assignment—The teacher, therefore, unauthorisedly remained absent from duty—Approval by the Vice-Chancellor to dismissal of teacher from service is a precondition and Vice-Chancellor had passed the order with a direction to give further opportunity to the teacher for joining—On teacher's failure to join duty, the approval of Vice-Chancellor stood accorded—In the circumstances, removal of the teacher from service is in accordance with law.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2548 of 1997.

From the Judgment and Order dated 8.1.96 of the Allahabad High Court in C.M.W.P. No. 9343 of 1981.

D.K. Garg for the Appellant.

Goodwill Indeevar, K.N. Balgopal, A.P. Mukund, B.P. Singh and R.G. James for the Respondents.

A The following Order of the Court was delivered :

Leave granted. We have heard learned counsel on both sides.

B The third respondent, Dr. B.S. Goel, while working as Head of the Department of Statistics in MMD Degree College, Modinagar had gone on foreign assignment in Basra University, Iraq for a period of one year. Subsequently, a letter was written by the Managing Committee on August 20, 1979 seeking the third respondent to join duty. Since he did not join the duty, the managing committee passed a Resolution to hold an enquiry into unauthorised absence from duty. On 27.2.1980, a charge-sheet in the shape of a letter was sent to respondent No. 3. He did not participate in the enquiry. The Enquiry Officer submitted his report on 19.6.1980. The Managing Committee, on consideration of the report, dismissed the third respondent on 31.7.1980 subject to the confirmation by the Vice-Chancellor. The Vice-Chancellor in his letter dated 19.12.1980 stated that since the third respondent had gone on foreign assignment, with the approval given by the appellant- Management, termination without giving an opportunity to the respondent to join duty is not proper. Accordingly, a cable was sent to the third respondent university as under:

E "On 20.1.1981, the University sent him a cable on his Basrah address and had also sent a copy in confirmation of the above cable that he should join M.M. College, Modi Nagar (Ghaziabad) immediately and latest by 15th February, 1981 positively failing which the Vice-Chancellor will approve the termination proceedings in this case."

F Admittedly, the third respondent, Dr. B.S. Goel did not join the duty by the prescribed time. Consequently, he was not taken to the duty when he later on reported for duty after coming to India. He filed a writ petition in the High Court. The High Court, in the impugned order, dated January 8, 1996, in Writ Petition No. 9343/81, has held that since the approval of termination was not given earlier, the Vice-Chancellor had no power to review the order and accord sanction for termination by the proceedings dated 21.2.1981.

G We find that the view taken by the High Court is not correct. The approval sought by the appellant for third respondent's absence from service was after the expiry of the period of foreign assignment. Necessari-

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ly, he, therefore, unauthorisedly remained absent from duty. Approval by the Vice-Chancellor to the dismissal of teacher from service is a precondition and the Vice-Chancellor had passed an order with a direction to give further opportunity for joining. Letter dated 15.2.1981 is a conditional letter. On his failure to join duty, the approval of the Vice-Chancellor stood accorded. Under these circumstances, the removal of the respondent from service is accordingly in accordance with law. A B

The appeal is accordingly allowed. The judgment of the High Court stands reversed. The writ petition dismissed. No costs.

R.P.

Appeal allowed.