

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 6978/2000

RAJINDER SINGH TGT & ORS. Petitioners
Through Mr. R.K. Saini, Advocate.

versus

THE ADMINISTRATOR NCT OF DELHI Respondent
Through Ms. Avnish Ahlawat, Advocate.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA

% **ORDER**
23.04.2008

1. Learned counsel for the petitioners states that he is not pressing the petition, as far as petitioner no.7 is concerned as his services were terminated in 1993 before the school was taken over by the GNCTD.
2. Petitioner nos. 1-6 and 8 claim that they were appointed as Teachers by Mr.C.P.S. Chauhan in Hardev Sahshiksha Madhyamik Vidyalaya vide letters dated 14th July, 1994. Name of the school was later changed to Hardev Co-education Middle School, Hardevpuri, Shahdra. The petitioner nos. 1-6 and 8 are claiming salary for the period from 9th August, 1995 till 18th May, 1998, when the said school was functioning under GNCTD.
3. Learned counsel for the petitioners in addition to the letters dated 14th

July, 1994, has relied upon documents annexed as Annexures P-1 and P-2 filed along with affidavit dated 19th May, 2003 of Mr. Raj Singh in support of his contention that the petitioner nos. 1-6 and 8 were working as Teachers and had continued to perform work as Teachers during the period 9th August, 1995 till 8th May, 1998. Learned counsel for the petitioners has also drawn my attention to Annexure R-7 filed by the respondent-GNCTD titled as "*Abaidhyani Karmcharyon Ka Vivaran, 1996*" wherein the names of the petitioner nos. 1-6 and 8 are mentioned.

4. The reason why learned counsel for the petitioner has given up the claim in respect of petitioner no.7 is apparent. Petitioner no. 7 was working as a Teacher in the said School but his services were terminated on account of misconduct on 18th November, 1993/22nd December, 1993. He had filed Writ Petition (Civil) No. 4583/1993 which was dismissed on 30th February, 1995. It is apparent that the petitioner no.7 was not working as a Teacher in the said School on 9th August, 1995 and did not perform work as a Teacher during the period 9th August, 1995 till 8th May, 1998. Petitioner no.7 has therefore deliberately made false, wrong and incorrect averments in the present writ Petition.

5. As far as the case of petitioner nos. 1-6 and 8 is concerned, no reliable material or trustworthy evidence has been placed to show that they were working as Teachers on the date when the said School was taken over on 9th

August, 1995 or they had performed and worked as Teachers after the said date till 8th May, 1998. Documents annexed as Annexures P-1 and P-2 relied upon by the petitioners are purportedly written by one Mr. P.C.Gupta. It is pointed out in the counter affidavit that Mr.P.C.Gupta was appointed as the Authorized Officer after the school was taken over but there were large number of complaints against him and the Lt. Governor was pleased to remove him from the post of Authorized Officer. Annexures P-1 and P-2 have been purportedly executed by him as Ex-Authorized Officer. Both these documents are disputed by the respondent-GNCTD and it is stated that these are false and fabricated documents which have been created to set up the claim made in the present Petition. I have examined Annexure P-1. In the first paragraph it is stated that one Mr.C.P.S.Chauhan who was Manager of the school had introduced Mr.P.C. Gupta to the staff members working at the time when the school was taken over and the names of the said staff members are mentioned in Annexure-1. The name of the petitioner no.7 appears at serial no.1 in the Annexure-1 though admittedly he had been removed and dismissed from service on 18th November, 1993/22nd December, 1993 i.e. much before the school was taken over by GNCTD on 9th August, 1995. This supports the contention of the respondent-GNCTD that Annexures P-1 and P-2 are forged and fabricated documents and cannot be relied upon. Respondents have also placed on record the list of Teachers, attested by the

Head Master, who had worked in the School in November, 1994. Photocopy of the salary register submitted by the Head Master has also been enclosed. In addition, the respondents have also filed copy of the Master Register for the year 1994-95 and 1995-96 which mentions the names of the Teachers who were appointed and were working. The said list also bears the signature dated 8th April, 1996 of the Head Master and the Authorized Officer.

6. Annexure R-7 contains the names of petitioner nos. 1-6 and 8. The petitioner nos 1-6 and 8 have claimed that they were appointed as Teachers but this claim was not accepted by the respondent-GNCTD. The title of the Annexure R-7 has been misunderstood and misread by the learned counsel for the petitioners. On reading of Annexure R-7 or its title it cannot be said that the petitioner Nos. 1 to 6 and 8 were working as teachers in 1995.

7. The respondent has also clarified in para 5 of the additional affidavit that in the official records there is no correspondence exchanged between Mr.P.C. Gupta and Mr. Chakraborty, to whom Annexures P-1 and P-2 were allegedly written. It is also pointed out that Mr.C.P.S. Chauhan had addressed a letter dated 27th January, 1998 which was received in the Office of the Lt. Governor on 3rd February, 1998. Along with this letter, photocopies of Annexures P-1 and P-2 were filed.

8. The respondent has also relied upon Sub-rule (3)(b) of Rule 96 of the Delhi School Education Rules, 1973. The same reads as under:-

“(3) The Selection Committee shall consist of :-

- (a) x x x x
- (b) In the case of an appointment of a teacher (other than the head of the school),-
 - (i) the Chairman of the managing committee or a member of the managing committee nominated by the Chairman;
 - (ii) the head of the school;
 - (iii) in the case of a primary school, a female educationist having experience of school education;
 - (iv) in the case of an aided school, one educationist to be nominated by the Director, and one representative of the Director;
 - (v) in the case of appointment of a teacher for any class in the middle stage or any class in the higher secondary stage, an expert on the subject in relation to which the teacher is proposed to be appointed, to be nominated, in the case of an unaided school by the managing committee, or in the case of an aided school, by the Director.”

9. Petitioners have not been able to show and establish that the said Rule was complied with before or after the alleged appointments in July, 1994, were made. Respondents have specifically denied that any appointments were made and they have stated that all appointments can only be made in accordance with Rule 96 of the Delhi School Education Rules, 1973.

10. After the School was taken over by GNCTD, the Teachers working in the School were not paid regular grades but were paid salary as was being paid to them before the School was taken over on 9th August, 1995. Aggrieved, the teachers working in the school had filed Writ Petition (Civil) No. 4777/1996 titled *Ram Singh and others versus Administrator and others*. The

said Writ Petition was disposed of on 17th December, 1997 with the direction to the respondent-GNCTD to pay salary to the petitioners therein as was required under law. LPA filed against the said judgment was dismissed vide Order dated 12th March, 1998 and the SLP filed by the Delhi Government also stands dismissed. Three members of the staff who were not parties in Writ Petition (Civil) No. 4777/1996 filed a separate writ petition in 1998 and the said writ petition was also disposed of on 10th December, 1999. It is surprising that the petitioners herein did not file any writ petition in 1997-98, though they claim that they were working and performing job as Teachers during the period 9th August, 1995 and 8th May, 1998. It is difficult to accept that the petitioner nos.1-6 and 8 had continued to work as teachers without any pay between 9th August, 1995 and 8th May, 1998. There is no letter or representation of the said petitioners making any claim for salary or that work was taken from them without paying any salary between 1995 to 1998. No attendance register or other document to establish that petitioner nos.1-6 and 8 had worked from 1995 to 1998 have been placed on record. In these circumstances, I do not find any merit in the present Writ Petition and the same is dismissed.

11. Petitioner no.7 has deliberately made wrong and false statement in the present Writ Petition. He shall pay cost of Rs.10,000/- to the respondent-GNCTD within four weeks from today. Cost will be paid to Directorate of

Education, Government of National Capital Territory of Delhi. In case the cost is not paid within four weeks, the same shall be recovered from petitioner no.7 as arrears of land revenue.

APRIL 23, 2008
P/VKR

SANJIV KHANNA, J.

