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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) No. 3022/2012

9th July, 2013

SHRI RAJ PAL SINGH

.....Petitioner

Through: Mr. Ashok Aggarwal, Adv.

VERSUS

SARDAR PATEL PUBLIC SENIOR SECONDARY SCHOOL & ORS.

..... Respondents

Through: Mr. U.S.Chaudhary and Mr. Vipin
Chaudhary, Advocates for R-1 and 2.

Ms. Shawana Bari, Adv. for Mr. Rajiv
Nanda, Adv. for R-3.

Mr. Surendra Kumar, Dy. E.O.Zone-IV.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. Three reliefs are claimed in this writ petition by the petitioner-Sh. Raj Pal Singh who is a teacher in the respondent no.1-school-Sardar Patel Public Senior Secondary School. Petitioner firstly claims arrears of payment as per the 6th Pay Commission Report made applicable to schools by the circular of Director of Education dated 11.2.2009, secondly the petitioner claims bonus and thirdly the relief claimed is of grant of annual increments.

2. So far as the grant of payment in terms of the 6th Pay Commission Report is concerned, counsel for respondent no.1 states that entire payment has been made in terms of the 6th Pay Commission Report except arrears which cannot be paid because of financial difficulty of the school. I have had an occasion to consider this aspect in the case of *Meenu Thakur vs. Somer Ville School & Ors* WP(C) 8748/2010 decided on 13.2.2013 that financial difficulty is not a ground for non-payment of arrears. In fact, Director of Education by its circular dated 11.2.2009 clarifies that financial difficulty is not a ground to refuse payment. The Division Bench of this Court in LPA No. 286/2010 in the case of *Rukmani Devi Jaipuria Public School Vs. Sadhna Payal & Ors.* decided on 11.5.2012 has also held that financial difficulty is not a ground to refuse payment in terms of the circular of Director of Education dated 11.2.2009 which directed payment in terms of the 6th Pay Commission Report. Accordingly, it is directed that respondent no.1 will pay to the petitioner arrears in terms of the 6th Pay Commission Report and the circular of the Director of Education dated 11.2.2009 within a period of four months from today. The payment of arrears will be made alongwith interest at 6% per annum simple from the date from which payment was to be made and till the payment is made. If there is any delay of payment beyond four months, the respondent no.1-school will be liable to pay interest at 9% per annum simple for the further period.

3. So far as the claims of bonus and annual increments are concerned, counsel for the petitioner has drawn my attention to the orders dated 5.10.2011 and 29.11.2011 of the Director of Education-respondent no.3 and which in the case of petitioner have directed the respondent no.1-school to make payment of the bonus and annual increments. The said orders read as under:-

Order dated 5.10.2011

“No.F.DDE/NE/Zone-IV/2011/479

Dated:-05/10/11

ORDER

Whereas a complaint of Sh. Rajpal, PGT (Maths), Sardar Patel Sr. Secondary School, Karawal Nagar, Delhi-against the school authorities was received in this office. It is alleged that the school authorities does not pay the proper salary to the teachers. Moreover, the salary is being paid in cash and arrears of pay and bonus are not being paid by them. Sh. Rajpal also alleged that his periodical increment has been stopped by the school authorities.

And whereas, the matter was enquired by a team of two officers duly appointed for the purpose. The inquiry team has submitted its report dated 20.5.2011 to the undersigned and it was found that the periodical increment in reference of the complainant has actually been stopped on the pretext of down fall of class result of Sh. Rajpal. IT was also found that the bonus due of the complainant has also not been paid to the complainant.

And whereas, the school authorities did not submit any justifiable reasons for non-payment of bonus. Moreover, no document/order/copies of the proceedings in reference of stopping the periodical increment as explained by the school authorities, was provided to the inquiry team.

Now, therefore, considering all the relevant facts of the matter and the report of inquiry team, I have come to the conclusion that school authorities has acted in violation the statutory provisions and have failed to pay the amount which was due to Sh. Rajpal. Manager of Sardar Patel Sr. Sec. School is hereby directed to release the upto date bonus (though cheque) due to Sh.

Rajpal & all other officials working in their school within a period of 15 days. It is further being ordered to set aside the directions, if any, in reference of stoppage of Periodical increment and pay the arrears arising out of stopped increment to Sh. Rajpal, PGT, Maths immediately. The compliance report must be submitted before undersigned at the earliest.

Sd/-

Education Officer

Zone-IN

Order dated 29.11.2011

“No.592

Dated: 29/11/11

ORDER

Whereas, vide order dated 05/10/2011 MANAGER, Sardar Patel Sr. Sec. School Karawal Nagar Delhi-94 was directed to release the up-to date Bonus (through cheque to Sh. Rajpal Singh and all others officials working in their school within period of 15 days and further to set aside the direction in reference to stoppage of Periodical Increment and to pay the arrears arising due to stopped increment to Sh. Raj Pal PGT (Maths) immediately and compliance report was submitted at the earliest.

And Whereas, vide their reply dated 31/10/2011 received in this office on 15/11/2011 enclosing certain documents, was placed before the undersigned for consideration.

And Whereas, the said order dated 05/10/2011, was issued to the school authority in compliance of the direction of worthy director of Education.

Now, Therefore the school authority Sardar Patel Sr. Sec. School Karawal Nagar, Delhi-is hereby once again directed to comply with the direction dated 05/10/2011 in its letter & sprite within 7 days of its receipt positively.

It may further be noted that in case, any litigation arises in this regard, then the entire expenditure for the same shall be recovered from the said school.

A compliance report may be sent within ten days of its receipt.

(Sd/-)

(R.N.SHARMA)

DY. DIRECTOR OF EDUCATION

DISTT.NE

4. It is not disputed on behalf of respondent no.1-school that the aforesaid orders of the Director of Education have not been challenged by them. These orders have therefore become final and the respondent no.1-school is bound by the same. Petitioner therefore has to be made payments in terms of these orders towards bonus and annual increments.

5. Accordingly, it is directed that the amount payable to the petitioner as bonus and annual increments be paid within four months from today. Petitioner will also be entitled to interest at 6% per annum simple from the date from which this amount became payable and till a period of four months from today. If the entire amount due alongwith interest is not paid within four months from today thereafter the interest will be paid at 9% per annum simple.

6. The writ petition is allowed and disposed of with the aforesaid observations.

JULY 09, 2013
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VALMIKI J. MEHTA, J.