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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment reserved on: 29.08.2024
Judgment pronounced on: 03.09.2024

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LPA 771/2023 & CM APPL.61531/2023

ARMY PUBLIC SCHOOL DHAULA KUAN Appellant

Through: Mr.Santosh Kumar Pandey, Advocate

versus

ARCHANA DHAWAN & ANR. Respondents

Through: Mr. Pramod Gupta, Mr. Harsh Jaiswal
and Ms. Poonam Dolo, Advocates for
R-1.
Mr. Gaurav Dhingra and Mr.
Shashank Singh, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MR. JUSTICE GIRISH KATHPALIA

J U D G M E N T

GIRISH KATHPALIA, J.:

1. This appeal brought under Clause X of the Letters Patent assails order dated 10.08.2023 passed by the learned Single Judge of this court in W.P.(C) 7807/2022, whereby the writ petition filed by the appellant (hereinafter referred to as “the School”) was dismissed, upholding the order passed by the learned Delhi School Tribunal in Appeal No.9 of 2019 filed by the present respondent no.1 (hereinafter referred to as “the Teacher”) against the



School and the present respondent no.2 Directorate of Education (hereinafter referred to as “the DoE”). On the basis of advance notice, respondents entered appearance through counsel. We have heard learned counsel for both sides.

2. Briefly stated, circumstances relevant for present purposes are as follows. The Teacher joined the School as TGT (Science) on 29.04.1983 and applied for the position of Principal, which application was rejected by the School. Eventually, the Teacher tendered her resignation dated 12.11.2018 on the ground that the environment in the school was not conducive for welfare of students and faculty at large. By way of letter dated 19.12.2018, the Teacher was informed by the Principal of the School that her resignation had been accepted, so she should do the clearance formalities. The resignation was forwarded to the DoE on 26.12.2018. Thereafter, the Teacher submitted letter dated 05.02.2019 seeking withdrawal of her resignation and letter dated 08.02.2019 explaining therein the circumstances under which she had resigned but now wanted to withdraw her resignation. Vide order dated 12.02.2019, the School rejected the resignation withdrawal application of the Teacher. As such, the Teacher filed an appeal before the learned Tribunal on 25.03.2019, which appeal was allowed vide order dated 12.01.2022. Feeling aggrieved with the order dated 12.01.2022 of the learned Tribunal, the School preferred a writ petition. That writ petition was dismissed by the learned Single Judge of this court by way of the impugned order. Hence, the present intra court appeal.



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3. On behalf of the School, it was contended by learned counsel that the impugned order of the learned Single Judge is not sustainable in the eyes of law insofar as, the provision under Rule 114A of the Delhi School Education Rules, 1973 was not properly appreciated. Learned counsel for the School contended that the resignation dated 12.11.2018 could be withdrawn within 30 days, i.e., on or before 11.11.2018 and not thereafter. Since, the request for withdrawal of the said resignation was made by the Teacher on 05.02.2019 & 08.02.2019, the withdrawal could not be permitted according to the School. Learned counsel for the School took us through Rules 114A of the Delhi School Education Rules. In support of his arguments, learned counsel placed reliance upon an order passed by a learned Single Judge of this court in the case of *Managing Committee of Rani Dutta Arya Samaj, Sagar Vidyalaya and Anr. vs. The Director of Education, Govt. of NCT of Delhi & Ors.*, 2017:DHC:192.

4. On the other hand, learned counsel for the Teacher supported the impugned order and contended that the present appeal is devoid of merit. Learned counsel for the Teacher took us through record in support of his contention that the resignation tendered by the Teacher was not voluntary and therefore, with the reasons explained in letters dated 05.02.2019 and 08.02.2019, the resignation could be lawfully withdrawn. It was further contended that the School itself violated the timelines prescribed under Rule 114A of the Rules by delaying the transmission of the resignation letter to the DoE. Learned counsel for the Teacher also contended that there is no



formal acceptance of the said resignation letter by the Managing Committee of the School with approval of the DoE till date.

5. For convenience, the relevant Rule is extracted below:

***“114A. Resignation** The resignation submitted by an employee of a recognized private school shall be accepted within a period of thirty days from the date of the receipt of the resignation by the managing committee with the approval of the Director:
Provided that if no approval is received within 30 days, then such approval would be deemed to have been received after the expiry of the said period.”*

6. To recapitulate, the Teacher tendered her resignation on 12.11.2018 and the Principal of the School on 19.12.2018 called upon the Teacher to carryout clearance; on 26.12.2018, resignation letter of the Teacher was forwarded by the School to the DoE with a stipulation that the resignation has been accepted with effect from 13.02.2019 and the acceptance would be “ratified” by the Managing Committee of the School in its forthcoming meeting; on 05.02.2019 followed by 08.02.2019 the Teacher withdrew her resignation but that withdrawal request was rejected by the School on 12.02.2019.

7. The issue before us is as to whether the Teacher could be allowed to withdraw her resignation keeping in mind the said timelines. On the said issue, the view taken by the learned Tribunal and the learned Single Judge was as follows.



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7.1 The learned Tribunal quoted from various sources to elucidate the meaning of resignation and observed that in cases of the present nature, the Rules contemplate trilateral acts of the stakeholders in order to make the resignation complete, those acts being tendering of resignation by the employee, followed by acceptance of the resignation by way of resolution passed by the Managing Committee of the School, followed by approval thereof by the DoE. In the circumstances of the present case, the learned Tribunal held that as per letter dated 19.12.2018, the resignation was to come into effect on 13.02.2019, but the School instead of waiting for maturity of the request on 13.02.2019 illegally accepted the resignation on 19.12.2018; that after 13.02.2019, a meeting of the Managing Committee of the School was required to be convened, accepting or rejecting the resignation by way of Resolution and thereafter, the DoE ought to have been approached for approval; that the resignation letter of the Teacher and the acceptance resolution of the Managing Committee should have accompanied the letter seeking approval of DoE under Rule 114A, but admittedly no such exercise was undertaken. The learned Tribunal also observed that even in the appeal under consideration of the Tribunal, no Minutes of Meeting of the Managing Committee of the School were filed, so it was a fit case to draw adverse inference that no such acceptance of the resignation was done. Further, the learned Tribunal held that in the present case acceptance of the resignation could have been only after 13.02.2019 and not prior thereto, insofar as complete cessation of employer-employee relationship had not come in existence on account of there being no completion of clearance



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formalities even according to the letters dated 19.12.2018 and 12.02.2019 of the School.

7.2 The learned Single Judge by way of the impugned order upheld the view of the learned Tribunal, observing on the basis of various judicial precedents that the plain language of Rule 114A of the Delhi School Education Rules 1973 clearly stipulates that whenever the resignation is submitted by an employee it shall be accepted by the Managing Committee of the recognized private school within a period of 30 days from the date of submission of the resignation letter, which period is the outer limit given to the Managing Committee; and that the expression “with the approval of the Director” in the said Rule does not mean “prior approval” nor does it require that the Managing Committee should accept the resignation with the “permission” of the DoE in the sense that the approval contemplated by Rule 114A is post acceptance of the resignation letter.

8. We are in complete agreement with the view taken by the learned Single Judge. It is trite that the resignation being cession of employer-employee relationship has to be a voluntary act on the part of the employee, to be followed by acceptance or rejection thereof by the employer by way of a reasoned decision, followed thereafter by approval or disapproval thereof in cases of tripartite process as in the present case. It is also settled position of law that the resignation tendered by the employee cannot be dumped in the deep freeze and the employer must decide the fate thereof within the



stipulated or a reasonable period. In the present case, the stipulated period vide Rule 114A was 30 days. It is also settled legal position that in cases of the resignation being effective from a future date, cession of relationship of employer-employee shall be from the said future date only and not from the date of tendering the resignation. Equally trite is that the acceptance or rejection of the resignation in cases of the present kind does not depend upon prior permission/approval of the DoE.

9. In the above backdrop, falling back to the present case, the resignation tendered by the Teacher on 12.11.2018 was to be effective from a future date of 13.02.2019 even as per the School's own letter dated 26.12.2018. There is nothing on record to show that the Managing Committee of the School took decision of accepting or rejecting the resignation within 30 days of its submission, though the said decision could be taken only after 13.02.2019. Consequently, the relationship of employer-employee between the School and the Teacher continued to survive. Even the School in its letter dated 19.12.2018 called upon the Teacher to complete the clearances, which in itself shows that letter dated 19.12.2018 did not terminate the relationship of employer-employee between the School and the Teacher, nor it conveyed termination thereof nor even conveyed any approval taken from the Managing Committee (*though it vaguely referred to the acceptance by the Management but there is no such document on record*) of the School. It is vide letter dated 05.02.2019 that the Teacher withdrew her resignation letter and reasons for withdrawal were explained by her in her subsequent letter



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dated 08.02.2019. Thus, till 08.02.2019, resignation tendered by the Teacher was neither accepted nor rejected by the Managing Committee of the School. Therefore, withdrawal of the resignation prior to cession of employer-employee relationship between the Teacher and the School could not be declined.

10. In view of the above discussion, we are unable to find any infirmity in the impugned order, so the same is upheld and consequently the petition and the pending application are dismissed.

**GIRISH KATHPALIA
(JUDGE)**

**SURESH KUMAR KAIT
(JUDGE)**

SEPTEMBER 03, 2024/as/ry