

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P. No. (C) 2171/2013

28th April, 2015

SHEELA BANERJEE

..... Petitioner

Through: Ms. Indrani Ghosh, Advocate.

versus

MANAGING COMMITTEE NATIONAL PUBLIC SCHOOL AND ORS

..... Respondents

Through: None.

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. No one appears on behalf of respondent nos. 1 & 3 in spite of the matter having been passed over once. It is now 12.45 p.m. I have heard the counsel for the petitioner and perused the record. I am hence proceeding to dispose of the petition.

2. By this writ petition filed under Article 226 of the Constitution of India, the petitioner, who was an employee of the respondent no.1/School, seeks the relief that she be granted all monetary benefits as payable to an employee of the

School as per the recommendations of the 6th Central Pay Commission Report read with the provision of Section 10 of the Delhi School Education Act, 1973.

3. The facts of the case are that the petitioner was employed by the respondent no.1/School at its Bela Road Branch and on the closure of the Bela Road Branch, in pursuant to an order passed by the Directorate of Education in exercise of powers under Rule 46 of the Delhi School Education Rules, 1973, petitioner was to be absorbed either in the Darya Ganj Branch or in the Kalindi Branch of the School. Petitioner was thereafter, absorbed in the Kalindi Branch and worked till her superannuation in January, 2010. The petitioner accordingly claims monetary emoluments as per the writ petition.

4. Section 10 of the Delhi School Education Act, 1973 is very clear and it states that an employee of a private school will be entitled to have the same monetary benefits and other benefits similar to those which are payable to the teachers and employees of government run schools. Petitioner is therefore entitled to the benefit of monetary emoluments as are payable to teachers and employees of government run schools.

5. The Directorate of Education vide its circular dated 11.02.2009 directed the schools in Delhi to pay to its employees emoluments payable as per the

recommendations of the 6th Central Pay Commission Report and make the consequential amendments to the salaries which are paid to the teachers. Once the circular of the Directorate of Education dated 11.02.2009 became applicable, the petitioner in terms of this circular was entitled to enhancement of salary, and therefore, petitioner is held entitled to the benefit of enhanced salary in terms of the circular dated 11.02.2009, as also consequential benefits, which thereupon would be applicable with respect to gratuity payable to the petitioner under the Payment of Gratuity Act , 1972. I may note that I have already held that schools are liable to pay gratuity as per the judgement in the case of *Deepak Dua Vs. Directorate of Education and Anr.* in W.P.(C) No. 7040/2011 decided on 10.04.2013. Petitioner therefore will be entitled to the payment of gratuity in terms of the circular of the Directorate of Education dated 28.03.2013 and which circular is reproduced in the judgment passed in *Deepak Dua's* case (*supra*).

6. The writ petition is accordingly allowed and disposed of by giving benefit to the petitioner of the enhanced pay applicable as per the Report of the 6th Central Pay Commission applicable to schools in terms of the circular of the Directorate of Education dated 11.02.2009 and other consequential

enhancements including the payment of gratuity under the Payment of Gratuity Act, 1972 as per the ratio of *Deepak Dua*'s case (*supra*). Respondent no.1 will expedite the payment due to the petitioner and the same be paid preferably within a period of three months from the date of receipt of the copy of the present judgment.

VALMIKI J. MEHTA, J

APRIL 28, 2015 /n