

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

+ W.P.(C) No. 2775/2015

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23rd March, 2015

MS. BHAGWAN DEVI

..... Petitioner

Through: Mr. Vishwendra Verma, Adv.

Versus

DEEP PUBLIC SCHOOL & ORS.

..... Respondents

Through: Ms. Bandana Shukla Adv. for R-3.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. By this writ petition filed under Articles 226 and 227 of the Constitution of India, petitioner impugns the judgment of the Delhi School Tribunal dated 23.9.2014 by which the Delhi School Tribunal has dismissed the appeal filed by the petitioner both on merits as also on the ground of limitation.

2. Petitioner claims/claimed that she had been appointed in the respondent no.1/School way back in 1997 and therefore she could not have been terminated without following the rules w.e.f 12.7.2007.

3. The respondent no.1/School in this regard pleaded before the Delhi School Tribunal that petitioner's case was only a case of compassionate appointment only on casual basis for different periods inasmuch as petitioner did not have qualification as required under the Delhi School Education Act and Rules, 1973 for being appointed and was also over-age when she got her first appointment on casual basis.

4. I put it to the counsel for the petitioner to show me the qualification of the petitioner, and whether a completely uneducated person can be employed by a school as per the provisions of the Delhi School Education Act and Rules, 1973, and, in response the counsel for the petitioner could not show to me any educational qualification of the petitioner.

5. Also, counsel for the petitioner could not point out any proof of the age of the petitioner when she was appointed by the respondent no.1/School and therefore, this Court has no option but to believe the case of the school that the petitioner was over-age and hence could not have been appointed to a regular post. Therefore, petitioner could not have sought regular employment with the respondent no.1/School not only on account of her being over-aged, but also because she did not have any qualification whatsoever.

6. Therefore, the Tribunal was justified in dismissing the appeal on merits.

7. So far as the challenge to the impugned judgment on the ground that the Tribunal holds that the appeal before the Delhi School Tribunal was barred by time is concerned, however though I *prima facie* agree with the view of the Delhi School Tribunal because simple withdrawal before the Industrial Tribunal/Labour Court, will not automatically extend the period of limitation for filing of the appeal, and which period is three months from the date of termination of services of the petitioner, since, however, the petitioner has no case on merits, the aspect of limitation need not be looked into by me.

8. Dismissed.

MARCH 23, 2015
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VALMIKI J. MEHTA, J.