

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

+ W.P.(C) No.5056/2013

% **24th April, 2015**

MRS. ANEE MATHEW Petitioner

Through: Mr.Ashok Agarwal, Advocate.

versus

ST. JOHN'S SCHOOL & ORS. Respondents

Through: Mr.Vinod Wadhwa, Advocate 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. Though there are various reliefs claimed in the writ petition, the only relief which is claimed during arguments and the writ petition is hence confined to the relief of the petitioner being paid salary in terms of the 6th Central Pay Commission Report which has become applicable to schools in Delhi by virtue of the Notification of the Director of Education dated 11.2.2009.

2. Admittedly, the petitioner continues to be an employee of the respondent no.1/School, and therefore her salary will have to be fixed in terms of the 6th Central Pay Commission Report and the Notification of the Director of Education dated 11.2.2009.

3. That even a minority school is liable to comply with the directions of the Director of Education as per the Circular dated 11.2.2009 has been dealt by this Court in the judgment of this Court in the case of ***T.P.Singh Vs. Guru Harkrishan Public School & Ors.*** in W.P.(C) No.12132/2009 decided on 14.2.2013. One such other order filed by the petitioner is annexed as Annexure 'F' to the writ petition, in the case of ***Smt. Ritula Bhalla & Ors. Vs. C.L.Bhalla Dayanand Model School & Ors.*** in W.P.(C) No.7016/2012 decided on 19.7.2013.

4. Accordingly, the respondent no.1/School will fix the salary of the petitioner in terms of the Report of the 6th Central Pay Commission adopted to schools by the Notification of the Director of Education dated 11.2.2009. However, the petitioner in view of the judgment of the Supreme Court in the case of ***State of Orissa & Anr. Vs. Mamata Mohanty (2011) 3 SCC 436***, will be paid higher salary for a period commencing from a date three years prior to filing the writ petition, and continuously thereafter in accordance with law, including during pendency of the writ petition. It is also clarified that the higher salary will be calculated from the date on which it became payable in terms of the Notification of the Director of Education dated 11.2.2009, though the amounts due will be payable to the petitioner only for a period of three years prior to filing of the writ petition and thereafter.

5. I may formally note that respondent nos. 1 & 2/School & Society have filed their counter-affidavit, but are not appearing, and it is noted that there is no substantial defence, and which can be accepted by this Court, as to why the petitioner should not be paid enhanced salary in terms of the Report of the 6th Central Pay Commission and the Notification of the Director of Education dated 11.2.2009.

6. In view of the above, the writ petition is allowed and the petitioner will be paid her emoluments in terms of the present judgment. Arrears which are payable to the petitioner be now cleared by the respondent no.1/School within a period of three months of receipt of a copy of the present judgment. Parties are left to bear their own costs.

APRIL 24, 2015
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VALMIKI J. MEHTA, J.