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

\+ W.P.(C) No. 5633/2013

% **19th January , 2015**

DINESH CHAND SHARMA .....Petitioner

Through: Mr. Ashok Aggarwal and Ms. Kusum Sharma, Advocates.

VERSUS

MANAGING COMMITTEE OF RUKMANI DEVI JAIPURIA PUBLIC SCHOOL & ORS. ..... Respondents

Through: Dr. M.Y.Khan, Adv. for R-1/school.

Ms. Bandana Shukla, Adv. for Ms. Ruchi Sindhwani and Ms.Meena Goswami, Advs. 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. Petitioner is employed as an Physical Education Teacher (P.E.T)/Physical Training Instructor (P.T.I) with the respondent no.1-school, Rukmani Devi Jaipuria Public School. Petitioner by means of this writ petition seeks the following reliefs:-

**PRAYER**

In the premise aforesaid, the petitioner most humbly prays that this Hon'ble Court may be pleased to:

a. Issue an appropriate writ, order or directions directing the respondents no.1 & 2 to grant the Petitioner full benefits of the ACP scheme along with all the consequential benefits at par with his counterparts employed in the schools of the respondent no.3.

b. issue directions to Respondent No.3 to take appropriate action against the Respondent school under Delhi School Education Act upon failure by the Respondents No. 1 & 2 to grant the petitioner the senior scale of Rs.5,500-175-9000/- as first up-gradation under the ACP Scheme w.e.f. 16.07.2002 i.e. the date of completing the 12 years of service and full benefits of the ACP scheme along with all the consequential benefits.

c. pass any such order or directions as this Hon'ble court may in the facts and circumstances of the present case deem fit and proper in favour of the petitioner and against the respondents:

and

d. allow the present writ petition of the petitioner with costs;"

2. Essentially, the petitioner seeks the higher pay-scale under the Assured Career Progression (ACP) scheme dated 25.8.2003 of granting a financial upgradation after 12 years of service in terms of the scheme dated 25.8.2003 enforced by the Directorate of Education with respect to schools.

3. I find that the present petition is bereft of the necessary and the requisite pleadings which are required to be made for the petitioner, who is an Physical Education Teacher (P.E.T)/Physical Training Instructor (P.T.I),

for being entitled to claim the financial upgradation in terms of the ACP scheme.

4. The ACP scheme as relied upon by the petitioner is Annexure P-2, and is dated 25.8.2003, and which scheme itself as per its various paragraphs requires besides completion of service of 12 years screening by Departmental Screening Committee (DSC) and which DSC vide paras 8 and 11 requires that certain norms of eligibility criteria have to be complied with by aspirants before the benefits of ACP scheme are granted. The said paras 8, 11 and 11.1 read as under:-

> "8. The concerned DDEs/branch In-charge will collect the requisite information in r/o all categories of eligible teachers in prescribed performa along with ACRs of 5 years preceding the due date of award of ACP, work and conduct report, integrity certificate, vigilance clearance and will submit the same to concerned Establishment Branch for submitting before the Screening Committee for taking further necessary action.
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> .....
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> 11. The following points are to be kept in mind while submitting the case of teachers before the Screening Committee:-
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> 11.1 Fulfillment of normal promotion norms (including educational qualifications as per Recruitment Rules) for grant of financial up-gradation, performance of such duties as are entrusted to the employees together with retention of old designations, financial up-gradation as personal to the incumbent for the stated purposes and restriction of the ACO scheme for financial and certain other benefits (HBA, allotment of govt, accomodation, advance etc) only without conferring any privileges related to

> higher status (e.g. invitation to ceremonial functions, deputations to higher posts etc) shall be ensured for grant of benefits under ACP scheme." (underlining added)

5. In the present petition I do not find any averment whatsoever, much less the necessary averments with respect to how the petitioner complies with the eligibility criteria of the promotion norms as stated in para 11.1 and related aspects of seeking ACP Scheme and which are also specified in para 8 of the circular/scheme dated 25.8.2003.

6. Therefore it is not understood by the Court that how in the absence of relevant pleading the petitioner will be entitled to benefits of the ACP scheme and which ACP entitlement is not an automatic entitlement because in terms of the scheme the claims/entitlement to ACP Scheme has to be examined by a Screening Committee and which has to examine the fulfillment of eligibility criteria. Thus no reliefs can be granted as the petitioner who has failed to show as to how the petitioner complied with the eligibility criteria for ACP Scheme with respect to the ACRs, eligibility criteria of promotion rules to the higher post etc etc.

7. After conclusion of the arguments, I put it to counsels for the petitioner that in the opinion of this Court it is better if the petitioner withdraws this petition and files a detailed writ petition giving the necessary

averments constituting the required cause of action that the petitioner satisfies the eligibility criteria for being entitled to the benefits under the ACP scheme by pleading requisite details, but, counsels for the petitioner insist that the judgment be passed on the basis of the present writ petition and the record.

8. In view of the above, since the petitioner has failed to satisfy the Court as to how the petitioner satisfies the eligibility criteria for grant of benefit of the ACP scheme, 2003, hence there is no merit in the petition and the same is therefore dismissed. No costs.

**JANUARY 19, 2015** **VALMIKI J. MEHTA, J.**
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