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

+ LPA 750/2013

ARMY PUBLIC SCHOOL AND ANOTHERAppellants
Through Ms. Asha Jain Madan, Advocate.

versus

SMT. SATYA CHHIKARA AND ANOTHER Respondents
Through Col. K.S. Chhikara & Ms. Satya
Chhikara, in person.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MS. JUSTICE MUKTA GUPTA

% **ORDER**
25.08.2017

CM No. 13601/2017

This is an application by the respondent for modification of the judgment dated 25th August, 2015 passed in LPA No. 750/2013, *Army Public School and Another versus Smt. Satya Chhikara and Another*.

2. The respondent had filed Writ Petition (C) No. 11484/2009, which was partly allowed by the single Judge on 3rd September, 2013 setting aside the termination order dated 5th February, 2009. In other words, the respondent was to be reinstated. However, on the question of back wages, reference was made to Rule 121 of the Delhi School Education Rules, 1973 and it was observed that the respondent would make a representation within two weeks and the said representation would be disposed of by the appellant by a speaking order within four weeks.

3. The appellant school thereafter filed the appeal, which was dismissed by a detailed speaking order dated 25th August, 2015, of which modification is sought.

4. Paragraphs 15 to 17 of the said order read:-

“15. We note that as per the decision taken by the learned Single Judge the appellant was required to pass an order in terms of Rule 121 of the Delhi School Education Rules, 1973 regarding wages to be paid to respondent No.1 for the period interregnum her services were terminated and she being reinstated in service. We were informed at the hearing of the appeal that the appellant has passed an order restricting wages, and in respect of which order, we simply observe that if respondent No.1 is aggrieved therewith she may take resort to such remedies are available to her.

16. We note that pursuant to the order dated October 09, 2013 granting conditional stay to the appellant of the implementation of the impugned order a sum of Rs.5,95,000/- (Rupees Five Lacs Ninety Five Thousand only) has been deposited by the appellant in this Court which has been kept in a fixed deposit and is bearing interest. We direct that said amount together with accrued interest thereon shall be paid to respondent No.1 and the appellant would be entitled to adjust the said amount concerning such wages which would finally be payable to respondent No.1 for the period interregnum she remained without a job and till she is reinstated in service. Regarding this period the appellant has already passed an order as per which respondent No.1 is entitled to some wages and therefore as regards the appellant the amount which the appellant itself has determined would be receivable by respondent No.1 and would be adjusted from the amount which respondent No.1 would receive under this order. But as regards respondent No.1, she would

be entitled to remedies as per law if she is aggrieved by the decision/order of the appellant determining back wages payable to her.

17. The appellant shall bear the cost of the appeal and shall pay to the respondent No.1 a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as costs in the appeal.”

5. The husband of the respondent has argued the present application and submitted that the entire back wages should be paid. He has also submitted that the appellant school had calculated amounts payable as back wages.

6. This aspect has been dealt with in paragraph 15 of the order dated 25th August, 2015. We do not think the aforesaid directions can be reviewed under Section 114 read with Order XLVII of the Code of Civil Procedure, 1908 or otherwise modified.

7. The second contention raised by the respondent is that the appellant had deposited Rs.5,95,000/-, which was towards back wages. This amount was directed and has been paid to the respondent with accrued interest. The appellant was directed to deposit Rs.10,100/- per month vide order dated 9th October, 2013. The total deposited amount in terms of the said direction is Rs.1,82,000/-. It is submitted that this amount should be also released to the respondent.

8. We have considered the said contention, but do not think that this direction can be made. A similar prayer was made in CM No. 1512/2017, which was not allowed when the said application was disposed of vide order dated 27th January, 2017.

9. As per the order of the single Judge, no back wages was directed to be paid and order under Rule 121 was required to be passed by the appellant.

The Division Bench while disposing of the appeal filed by the appellant school vide order dated 25th August, 2015, though no appeal had been preferred by the respondent, had directed release of Rs.5,95,000/- to the respondent.

10. Paragraph 15 of the order dated 25th August, 2015 leaves it open to the respondent to take recourse to appropriate remedy challenging the order under Rule 121. It will be appropriate and proper for the respondent to take recourse to judicial remedies available against the order under Rule 121 of the aforesaid Rules.

The application is disposed of. No costs.

SANJIV KHANNA, J.

MUKTA GUPTA, J.

AUGUST 25, 2017
VKR