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

+ **W.P.(C) 7155/2016**

BHARAT SINGH

..... Petitioner

Through: Mr. T.D. Yadav, Adv.

versus

GOVT OF NCT OF DELHI AND ORS

..... Respondents

Through: Mr. Gautam Narayan, ASC with Mr.

Shatrajit Banerji, Adv. for R-1 to 3 with Ms.

Meena Goswami, Dy. Education Officer.

Mr. Shankar Raju and Mr. Nilansh Gaur, Adv. for
R- 4 to 6.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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01.09.2016

1. The petitioner superannuated from service as a PGT (Natural Science) on 31.01.2016. The petitioner seeks re-employment upto the age of 62 years from the very next day under the Government's Notification dated 31.12.2007 read with Office Order dated 15.02.2008 on the ground that the re-employment is automatic and there has been no case or complaint against the petitioner during entire tenure of his service with the respondent school.
2. In an earlier petition filed by the petitioner being WP(C) No. 2063/2016, vide order dated 26.04.2016 this Court had directed the respondent school to dispose off the petitioner's representation for re-employment. The respondent school has passed the impugned speaking

order dated 30.05.2016, which inter alia observed that:

“..... 4) That the Hon'ble High Court of Delhi in LPA 414/2011 vide judgment dated 28.3.2012 in the case of Shashi Kohli Vs. Directorate of Education held that re-employment of a retired teacher is not automatic but, a concession conferred upon the teachers. The School cannot be compelled to retain the teachers who were not found best in the field. According to the Hon'ble High Court, the notification for re-employment ought to be read as an incentive but cannot be conferred a right to a teacher. The benefit of notification is intended for those who have the potential for continued useful service to the institution. According to the Hon'ble High Court, non-grant Of re-employment does not cast any stigma and the notification is not intended to force upon the school to re-employ teachers who are worthless. In the light of the judgment of the Hon'ble High Court and having considered the previous record of Sh. Bharat Singh, the Committee was of the view that Sh.Bharat Singh during his tenure as a Teacher with the School does not enjoy the status of an excellent Teacher. His attitude towards students, fellow workers was not congenial. The management was benevolent in not certifying him not to be an excellent academic performer so that, at the verge of his retirement, his benefits are not curtailed. The record of Sh.Bharat Singh available with the School does not reflect that Sh.Bharat Singh has potential for continued useful service to the Institution. His continuance would affect the standards of teaching. Accordingly, a more competent fresh blood required to be inducted into the Institution.

After consideration the contentions raised by Sh. Bharat Singh during his personal hearing and his request for re-consideration, the Management Committee was of the view that Sh. Bharat Singh is not found fit for being Offered re-employment. Accordingly, his earlier representations and the request for reconsideration stands rejected. Copy of this order be communicated to Sh. Bharat Singh through Speed Post. This Speaking Order complies with the order dated

26.4.2016 passed by the Hon'ble High Court of Delhi in WP(C) 2063/2016.....”

3. The Court is of the view that the notification dated 31.12.2007 allowing the automatic re-employment of all retiring teachers in Government Aided schools upto PGT level was further clarified by Office Order dated 15.02.2008 which made it conditional upon the Managing Committee for re-employment indicating that the Management’ willingness to meet the respective additional proportionate expenditure on the salary of the teachers concerned. The Office Order further provided that the professional fitness would be assessed by the Deputy Director Education of the district concerned, in addition to the requirement of physical fitness and vigilance clearance. Quite clearly, the automatic re-employment would still be conditional upon an application being made, subject to aforesaid conditions.

4. The notification has not extended the age of superannuation to 62 years. An applicant only has the right to be considered for re-employment, and the extension is not automatic irrespective of the aforesaid required clearances.

5. Insofar the respondent school has considered the application for re-employment and hence for reasons stated above, found that the petitioner is not professionally fit to be re-employed. The learned counsel for the petitioner states that the petitioner’s record was not considered by the school. The petitioner has annexed the results of classes VI to X in the respondent school of the past 14 years i.e. from 2002 to 2016. On the basis

of the said results, he seeks to contend that the pass percentage of each class was processed and, therefore, the petitioner cannot be penalized on the ground of non-performance.

6. On a query being put to the learned counsel for the petitioner, whether the results pertained to the entire class for all subjects or pertained only to the subject being taught by the petitioner i.e. Natural Science, he is unable to give any answer in this regard. From a bare perusal of the said compilation of results (Annexure P-13), it is clear that they pertained to the entire class results pertaining to different subjects. The annual results pertained to total number of students who appeared in each class and were passed i.e. it pertains to children who were promoted from one class to the other. It does not reflect the pass percentage or the results of the class pertaining specifically to the subject taught by the petitioner. Hence the petitioner cannot derive any benefit from the said document.

7. By the impugned order, the respondent school has not found the petitioner fit for re-employment. The respondent school has noted that the petitioner did not enjoy the status of an excellent teacher and his attitude towards students and fellow workers was not congenial. The impugned order states that the respondent was benevolent in certifying the petitioner to be an excellent academic performer because he was on the verge of his retirement and his post retirement benefits could have been affected by any adverse observations. Upon review of his career/ past record, the respondent did not find the petitioner to be a person who holds the potential to continue service in the institution. Additionally, the respondent noted that the petitioner's continuing to work as a teacher in the school the school would

adversely affect the standard of teaching. Therefore, the respondent found it prudent to intake fresh talent for imparting education in the school.

8. The aforesaid reasons are self-explanatory and sufficient. The Court finds no reason to interfere with the same. The petition is without merit and is, accordingly, dismissed.

SEPTEMBER 01, 2016/kk **NAJMI WAZIRI, J**

