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

+ W.P.(C) 6737/2015, CM Nos.17522/2015 & 21357/2015

AJAY KUMAR SHARMA AND ORS. Petitioner

Through: Mr.S.N.Tripathi, Adv. with
Ms.Ankita Pandey, Adv.

versus

DILSHAD PUBLIC SCHOOL AND ORS. Respondent

Through: Mr.Rohit Minocha, Adv. for R-1 &
R-2
Mr.Anuj Aggarwal, ASC for R-3

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **05.01.2016**

The present petition has been filed by the petitioners seeking relief that directions be issued to respondent Nos.1 & 2 to forthwith credit full salaries as payable to them for the period February, 2015 to August, 2015.

2. The respondent Nos.1 & 2 have filed their counter-affidavit. In their counter-affidavit, the following is their case:-

“13. That as per the service book of the petitioners following salary is payable. Table showing the same is as under:

<i>SNo. (as per Writ Petition)</i>	<i>Name</i>	<i>Basic Salary (as per service record)</i>	<i>D.A. (119%)</i>	<i>Grade Pay (As per VI Pay Commission)</i>	<i>Total</i>

1.	<i>Ajay Kumar Sharma</i>	16,341/-	19,445/-	4600/-	40,386/-
2.	<i>Kamlesh Saini</i>	18,716/-	22,272/-	4600/-	45,588/-
3.	<i>Shanti Lal</i>	16,341/-	19,445/-	4600/-	40,386/-
4.	<i>Asha Sharma</i>	14,290/-	17,005/-	4600/-	35,895/-
5.	<i>Annapurna</i>	12,275/-	14,607/-	4200/-	31,082/-
6.	<i>Kiran Soni</i>	12,275/-	14,607/-	4200/-	31,082/-
7.	<i>Simple Joshi</i>	12,275/-	14,607/-	4200/-	31,082/-
8.	<i>Annuradha</i>	10,857/-	12,920/-	4200/-	27,977/-
9.	<i>Amit Roy</i>	<i>Not Entitled as per averments in para No. 8</i>			
10.	<i>D.K.Gautam</i>	9300/-	11,067/-	4200/-	24,567/-
11.	<i>Ms.Soni</i>	<i>Not Entitled as per averments in para No. 9</i>			
12.	<i>Nand Kishore</i>	<i>Not Entitled as per averments in para No. 11</i>			
13.	<i>Manorma Pandey</i>	<i>Not Entitled as per averments in para No. 10</i>			
				<i>Total</i>	<i>3,08,045/-</i>

3. There is no dispute that salaries have not been paid to the petitioners. With regard to four petitioners, the respondent Nos.1 & 2 have disputed the salary on the ground that certain memorandums have been issued to them. In any case, the aforesaid calculations have been disputed by the petitioners in their rejoinder. Without going into the controversy as to what is the amount payable to the petitioners, this Court thought it appropriate vide its order dated December 09, 2015 to direct the Deputy Education Officer to personally look into the computation of salary as made by the petitioners on one hand and respondent Nos.1 & 2 and file a chart himself about the

entitlement of the petitioners. A chart was filed in the Court on December 18, 2015, a copy of which was given to the learned counsel for the respondent Nos.1 & 2 to verify the calculations so made by the Deputy Education Officer.

4. I only note for benefit, the said calculations with regard to eight petitioners were approved by the Accounts Department of the concerned District. With regard to balance six, Mr. Anuj Aggarwal had on the last date of hearing stated that the same would also be seen and approved by the Accounts Department. In that background, this Court had recorded the statement made by Mr. Aggarwal, if there is any correction with regard to six employees, the same shall be notified to learned counsel for the respondent School within four days from that date. Mr. Aggarwal states that out of six employees, with regard to five employees at serial Nos.1,4,5,8 & 13, there was an increase in the arrears and whereas with regard to employee at serial No.12 namely Mr. Nand Kishore, there was a decrease in the arrears. This change was notified to the respondent Nos.1 & 2 as well as to their counsel. No response has been filed by the respondent Nos.1 & 2 on the calculations filed with regard to eight petitioners as well as six petitioners (communicated later). A new chart, with changes, has been filed by

Mr.Aggarwal today in the Court. The same is taken on record. The Registry to upload the same.

5. Mr.Rohit Minocha, learned counsel for respondent Nos.1 & 2 would state that insofar as four employees are concerned, for whom the calculations have not been filed, are not entitled to the arrears of pay for the reason, the memorandums were/have been issued to them. Such a submission is not tenable in law as issuance of memorandums would not mean that the respondent Nos.1 & 2 can deny the salary for the period they were on rolls of the respondent Nos.1 & 2. Even if the services of some of the petitioners have been terminated, they are entitled to the salary till that date.

6. It is also his submission that the respondent Nos.1 & 2 have not calculated the arrears to be paid to the petitioners by including HRA and TA. He would plead financial stringency as a ground for not able to pay the said benefits to the petitioners. He also states that in terms of the calculations filed by the respondent Nos.1 & 2, the total amount payable to the petitioners would be in the sum of Rs.3.5 lacs approx. per month.

7. Having heard the learned counsel for the parties and noting the fact that the concerned officer of the Directorate has filed a chart quantifying the

amount of arrears to be paid to each of the petitioners and the respondent Nos.1 & 2 also does not dispute the salary has not been paid since February, 2015 and the fact that the chart has been prepared by the Education Officer to which no response has been filed, the computation cannot be doubted, the relief as prayed for by the petitioners need to be granted including HRA and TA. As I note the arrears of salary still to be paid after adjusting the amount already paid, being substantial, this Court is of the view that the respondent Nos.1 & 2 shall pay the amount in terms of the revised chart filed today by Mr.Aggarwal, (a copy of which has been given to counsel for the parties including the counsel for respondent Nos.1 & 2) in three monthly instalments to each of the petitioners, starting from this month, to be paid on or before January 15, 2015 and the balance two instalments on or before 7th day of February and March, 2016.

8. The petition stands disposed of.

CM Nos.17522/2015 & 21357/2015

In view of the order passed in the writ petition, the applications are dismissed as infructuous.

V. KAMESWAR RAO, J

JANUARY 05, 2016/km