

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

+ **W.P.(C) No. 776/2009**

% **3rd February, 2017**

SHRI KULDEEP SINGH Petitioner

Through: None.

versus

THE MANAGEMENT OF ST. JOHN CO-EDUCATION
SECONDARY SCHOOL & ORS. Respondents

Through: Mr. Varun Nischal, Advocate
for DOE.

CORAM:
HON'BLE MR. JUSTICE VALMIKI J. MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. By this writ petition under Article 226 of the Constitution of India, petitioner seeks the relief of being regularized as a Trained Graduate Teacher (TGT) with the respondent no. 1/St. John Co-education Secondary School.

2. The case of the petitioner is that he had been carrying out teaching duties with the respondent no. 1/school since 1.8.1997 till July, 2008. Respondent no. 1 is an aided minority school. Petitioner pleads that since he has been working for eleven years with the

respondent no.1/school he should be regularized instead of the post being filled by direct recruitment in terms of the advertisement dated 24.3.2008 issued in Navbharat Times, Hindi Edition.

3. The counter affidavit filed by the respondent no. 1/school and the Director of Education/respondent no. 2 shows that the petitioner was not appointed by a regular selection process by a regular selection committee and thus there was no sanctioned post or sanction of the Director of Education to fill a post which was working. As per the counter affidavit of the respondent no.1/school, the petitioner was known to the then Principal, and therefore, he was appointed purely temporarily at a consolidated sum of Rs.1,000/- and which amount was payable from the PTA Fund. This is the admitted case of the petitioner himself also because the petitioner has filed a certificate dated 25.11.1999 showing that he was appointed on purely temporary basis with effect from 1.8.1997 and was being paid a consolidated sum of Rs.1,000/- from the PTA Fund.

4. No doubt, the respondent no. 1/school is an aided minority school and the Director of Education can only prescribe qualifying standards for appointment of a teacher and Director of Education cannot interfere with the selection of a person in the school, however,

firstly, since the petitioner has never been selected through a regular selection process (and which is even the admitted case of the petitioner in terms of his certificate dated 25.11.1999 filed as annexure P-1 to the writ petition), and therefore petitioner had only worked in a temporary capacity on a fixed salary being payable from the PTA Fund cannot claim regularization and secondly that petitioner can only claim regularization on account of having worked with the respondent no. 1/school for a period of eleven years to a post sanctioned by the Director of Education and which is not so.

5. The issue arises of regularization in an aided school to which 95% finances are provided by Government is only if there is a post which is sanctioned by the Directorate of Education. Without there being a sanctioned post, a person cannot seek permanent appointment merely because such a person is employed as a teacher in an aided school. If petitions, like the present, are allowed with respect to regularization of appointments in aided schools to whom 95% aid is given from the Government, the same will result in totally illegal appointments with the consequence that Government will be asked to spend funds on illegal appointments of employees and teachers in the school.

6. In view of the above, there is no merit in the petition and the same is, therefore, dismissed, leaving the parties to bear their own costs.

FEBRUARY 03, 2017
Ne/AK

VALMIKI J. MEHTA, J

