

\$~6

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

W.P.(C) 5068/2016, CM No. 21148/2016

ANIL KUMAR AGARWAL

..... Petitioner

Through: Mr.A.J.Chaudhuri, Adv.

versus

MANAGER OF BALVANT RAY MEHTA VIDYA BHAWAN &
ORS

..... Respondents

Through: Mr.Anil Kumar, Mr.Deepak P.Sharma,
Advs. for R-1-2

Mr.Rizwan, Adv. for Mr.S.K.Tripathi,ASC for R-3

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

%

04.05.2017

On the last date of hearing, this Court passed the following order:-

*“1) Learned counsel for the respondent no.1/school has drawn the attention of this Court to the order dated 25.11.2016 passed by the Director of Education giving voluntary retirement to the petitioner w.e.f. 21.8.2013. A copy of this letter is placed on record. In case, petitioner does not dispute his being granted voluntary retirement, then, this writ petition will become infructuous because there does not remain after grant of voluntary retirement the relationship of employee and employer between the petitioner and the respondent no.1 and so observed by the Supreme Court in the case of **A.K.Bindal & Anr. Vs. Union of India & Ors. (2003) 5 SCC 163.***

2) Learned counsel for the petitioner states that petitioner intends to challenge the order dated 25.11.2016 of the Director of Education passed in this case.

3) List on 4th May, 2017.”

The present petition has been filed by the petitioner with the

following prayer:-

“(a) Issue of a Writ of Certiorari or any other appropriate writ/order/direction (s) for quashing the vacancy statement dated 5.3.2016 and also the minutes of the meeting dated 20.11.2015.

(b) Issue a writ of mandamus or any other appropriate writ or order or direction and thereby directing the respondents not to promote/give effect to the above said vacancy statement dated 5.3.2016 and minutes of the meeting dated 20.11.2015 up to the extent of promotion to the post of principal/Vice Principal.

(c) Pass any other order or orders as deemed fit and proper in the facts and circumstances of the case in favour of the petitioners.”

The petitioner had tendered his application for VRS. An issue arose that the voluntary retirement has not been approved by the Directorate of Education.

I note that the petitioner had earlier filed an appeal No.51/2015 before the Delhi School Tribunal, which had allowed the appeal in favour of the petitioner by holding that the petitioner has been relieved by the School without obtaining prior approval under Section 8 (2) of the DSE Act. It is now stated by the learned counsel for the respondent no.3 that the Directorate of Education has granted ex-post facto approval to the request for voluntary retirement effective from 21st August, 2013. It is conceded by the learned counsel for the petitioner that the said decision of the Directorate of Education has been challenged by him before the Delhi School Tribunal.

If that be so, the present petition with the aforesaid prayers has

become infructuous as the petitioner is no more in service of respondent nos.1 and 2.

The petition is dismissed as infructuous.

V. KAMESWAR RAO, J

MAY 04, 2017
RN