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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) No. 8463/2008

3rd February, 2017

NEELAM GUPTA

.....Petitioner

Through: Mr. Rajeev Saxena and Ms. Namrata
Chauhan, Advocate.

versus

SOMERVILLE SCHOOL & ANR.

..... Respondents

Through: Mr. Varun Nischal, Advocate for R-
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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 and Article 227 of the Constitution of India, petitioner impugns the order of the Delhi School Tribunal dated 6.5.2008, by which the Delhi School Tribunal has refused to set aside the termination order dated 30.9.2004 issued by the respondent no.1/school terminating the services of the petitioner as a Librarian on the ground that petitioner did not have the requisite educational qualification of graduation in Library Science.

2. The admitted facts are that the petitioner served with the respondent no.1/school for around 22 years before her termination order.

The preceding facts prior to the termination order are that the respondent no.2/Director of Education (DOE) had conducted an inspection of the respondent no.1/school on 15.12.1999 and raised objection with respect to lack of qualification of the petitioner in not having the necessary Bachelor degree in Library Science inasmuch as the petitioner had pursued only a certificate course in Library Science conducted by the Delhi Library Association and not a University. Petitioner was accordingly given time of two years by the Managing Committee of the respondent no.1/school vide its Meeting dated 10.4.2000 to get the necessary qualification and which period was further extended in the Meeting dated 31.5.2004 of the Managing Committee of the respondent no.1/school by giving six months more time to the petitioner till 31.12.2004. Petitioner, however would get the degree in Library Science for about 2 months and 8 days after 31.12.2004, because though she appeared in the B.Lib. examination in the month of December 2004, but she was declared as passed only later on 8.3.2005. Be it noted that examination was given by the petitioner for passing the course of B.Lib. within the six months extended period which expired on 31.12.2004.

3. The only issue in this case is that whether the respondent no.1/school before expiry of six months granted till 31.12.2004 could have

terminated the services of the petitioner earlier by its impugned termination letter dated 30.9.2004 and that too although petitioner had given the examination by 31.12.2004. In my opinion, the writ petition can be allowed for two reasons. Firstly, if petitioner has been granted time till 31.12.2004 to acquire necessary qualification because she had otherwise worked with the respondent no.1/school, a minority unaided school for 22 years, then there was no reason why extension should not be granted beyond 31.12.2004 for a period of just 2 months and 8 days i.e up to 8.3.2005 when petitioner's result was declared and she was successful in getting the degree of B.Lib. The second reason is that a candidate can at best give examination but when the results are declared is not in the hand of the candidate. Petitioner gave her examination for B.Lib. prior to the expiry of six months on 31.12.2004. It is only that the results were declared thereafter and petitioner was declared to be passed on 8.3.2005. In a way therefore in the facts of the case petitioner's result will have to be related back to the date of giving examination in December, 2004 and petitioner therefore in the peculiar facts of this case can be said to have completed her qualification of B.Lib. before 31.12.1994. In any case, if there is any doubt whatsoever, since period of getting qualifications can be extended, this Court grants deemed extension to the petitioner till 8.3.2005 when the petitioner acquired her degree in B.Lib.

4. In view of the above, this writ petition is allowed and the impugned order of the Delhi School Tribunal dated 6.5.2008 is set aside. The order of the termination of the petitioner from the respondent no.1/school dated 30.9.2004 is also set aside. What would be the monetary emoluments payable to the petitioner for the period which petitioner has not worked with the respondent no.1/school will be decided by the respondent no.1/school in terms of Rule 121 of the Delhi School Education Rules, 1973, and for which purpose petitioner will make the necessary representation to the respondent no.1/school.

5. The writ petition is allowed and disposed of with the aforesaid observations.

February 03, 2017
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VALMIKI J. MEHTA, J