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

+ **W.P.(C) 6722/2017**

SATISH Petitioner
Through Mr.Avadh Kaushik, Adv.

versus

GOVT OF NCT OF DELHI & ORS. Respondents
Through Mr.Satyakam, Adv. for R-1 to 5.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MS. JUSTICE REKHA PALLI

ORDER
% **08.08.2017**

C.M. No.27996/2017

Exemption allowed, subject to just exceptions.

This application is disposed of.

C.M. No.27997/2017

This application has been filed by the applicant seeking permission to place additional documents on records.

For the reasons stated, the application is allowed. Additional documents are taken on record.

This application is disposed of.

W.P.(C) No.6722/2017

The only issue involved in this petition is as to whether the order dated 8th May, 2014 issued by the respondent no.2 terminating the services of the petitioner who was on probation, is stigmatic or

not. The said order reads as follows:-

“Whereas, vide order dated 13/09/2011 issued by the then Dy. Director of Education (North-West B) service of Satish Kumar D.O.B. 05/11/1978, Emp ID 2001695, assistant Teacher, Sarvodaya (Coed) Vidyalaya, C-Block, Mangolpuri, Delhi was terminated under Rule 3(1) of the CCS (Temporary Service) Rules, 1965 w.e.f. 12/10/2011 an expiry of one month notice period of the order.

And whereas, being aggrieved, Sh.Satish Kumar filed an OA No.3482/2011 titled as Satish Vs. GNCTD & Ors. challenging the above said order dated 13/09/2011.

And whereas, the said OA No.3482/2011 was disposed of by the Hon’ble CAT vide judgment dated 25/11/2013 with the directions as reproduced below:-

5. Though the decision of the respondents to issue an order simpliciter terminating applicant’s services under Rule 5 (1) cannot be faulted on merit, we feel that the Department indeed committed a mistake in issuing the order dated 13.09.2011, as it has been issued by the Deputy Director of Education. The respondents’ argument that the Deputy Director issued order under delegated authority cannot be accepted as it is against the settled law as cited by the applicant. Though the respondents rightly claim that it has the approval of the Director of Education on file, still the aforesaid order dated 13.09.2011 does not even mention that it has the approval of Director of Education. Therefore, this order clearly has to go. We, therefore,

quash the order dated 13.09.2011. As regards the order dated 18.05.2011 extending the probation period of the applicant, we do not think it is necessary for us to interfere in the same as the person who has been found involved in a case of cheating and impersonation definitely has to be kept under observation for a longer period till he is cleared of the allegation against him. We also wish to clarify that since it is a matter of technicality on which we quash the order dated 13.09.2011 i.e. only on the ground of the defect that it has been issued by the Deputy Director (although it had the approval of the Director of Education), we dispose of this OA with a direction to respondents to issue a fresh order terminating the services of the applicant under the signatures of the Director of Education and none else, in the light of the judgment of the Hon'ble High Court of Delhi in Govt. of NCT of Delhi and Ors. Vs. Ravi Prakash Meena, W.P (C) No.4798/2012.

Now, therefore, I Padmini Singla, Director of Education, Directorate of Education, Govt. of NCT of Delhi under sub Rule (1) of Rule (5) of the Central Service Rule (Temporary Service) Rules, 1965 hereby terminate the services of Sh.Satish Kumar, D.O.B. 05/11/1978, Emp ID 20091695, Assistant Teacher, Sarvodaya (Co-ed) Vidyalaya, C-block, Mangolpuri, Delhi w.e.f. 12/10/2011.

This complies with the judgment dated 25/11/2013 passed by the Hon'ble Central Administrative Tribunal, Principal Bench, Delhi in OA No.3482/2011.”

Ex facie, the aforesaid order is stigmatic inasmuch as it reproduces the earlier order of the Central Administrative Tribunal passed in OA No.3482/11 dated 25th November, 2013 wherein the Tribunal observed that “we do not think it necessary for us to interfere in the same as the person who has been found involved in a case of cheating and impersonation definitely has to be kept under observation for a longer period till he is cleared of the allegation against him”.

In view of the aforesaid, the learned counsel for the respondents submits that the respondents shall withdraw this order and issue a fresh order without making any reference to this order or the withdrawal of the order terminating the services of the petitioner, through an order of termination simpliciter without making any stigmatic remarks.

The writ petition is disposed of in the aforesaid order.

VIPIN SANGHI, J

REKHA PALLI, J

AUGUST 08, 2017/aa