

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

Date of Order: March 13, 2018

+ **W.P.(C) 1106/2017**

SATYENDRA KUMAR Petitioner
Through: Mr.Kamlesh Kumar, Advocate

versus

MAHARAJA AGARSAIN PUBLIC
SCHOOL & ANR. Respondents
Through: Mr.Jitendra Kumar, Advocate for R-1
Ms.Santosh Kumar Tripathi, ASC
(GNCTD) for R-2

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Enforcement of provisions of Delhi School Education Act, 1973 regarding payment of salary to petitioner as per prescribed pay scale for TGT and other emoluments i.e. grade pay, HRA, DA @ prevalent rate in compliance of provisions of Section 10 of the Delhi School Education Act, 1973 for the months of September, October and November, 2016 and suspension allowance as per Rule 116 of Delhi School Education Rules, 1973 from the date of suspension is sought in this petition. Petitioner claims to be a TGT (Sanskrit) since 15th July, 2009 and according to petitioner, after completion of 7 years of service, he had called upon the respondent-school to pay the prescribed pay scale of TGT and a legal notice to this effect was sent in October, 2016. It is the case of petitioner that in November, 2016, petitioner was illegally suspended

and a charge sheet was issued to petitioner but no inquiry has commenced yet. Petitioner claims that on 12th December, 2016, he had made a Representation (*Annexure P-10*) to Director of Education to seek the salary etc. but it has not been decided.

2. In the counter affidavit filed by the respondent-school, the stand taken is that petitioner is a contractual employee and copy of the contract is annexed as *Annexure R-1* with the counter which reveals that petitioner's appointment as TGT (Sanskrit) is on a consolidated pay of ₹800/- per day and is for the period with effect from 11th July, 2016 to 11th May, 2017. So far as the payment of suspension allowance is concerned, respondent-school along with its counter filed has appended *Annexure R-3* which is of 10th January, 2017 whereby the payment of balance salary etc. is sought to be tendered to petitioner who has not come forward to collect it.

3. Alongwith rejoinder, *Annexure P-12* has been appended to indicate that petitioner was the teaching staff of the respondent-school and as per this annexure, petitioner had rendered service of six years. However, as per *Annexure P-13 (Colly)* to the rejoinder filed, respondent-school vide Communication of 14th June, 2010 has intimated the Directorate of Education that petitioner is working on ad-hoc basis.

4. Learned counsel for petitioner submits that petitioner cannot be made to work on ad-hoc basis perpetually and since petitioner has rendered service of more than seven years, therefore, he is entitled to grant of regular pay scale. It is submitted that in pursuance to the interim order of 26th April, 2017 in this petition, petitioner has received arrears of salary etc. to the tune of ₹96,000/- on 1st May, 2017 and thereafter,

service of petitioner has been illegally terminated and the termination order is under challenge before the Delhi School Tribunal.

5. Learned counsel for respondent-school submits that since the appointment of petitioner was on contractual basis, therefore, he is not entitled to the pay scale of TGT who are working on regular basis.

6. Upon hearing and on perusal of the material on record, I find that the documents sought to be relied upon by petitioner have been placed on record along with the rejoinder and respondent-school had no opportunity to controvert the said documents. In such a situation, it is deemed appropriate to dispose of this petition with permission to petitioner to file a concise representation while relying upon the document filed along with the rejoinder to make out a case for grant of prescribed pay scale of TGT within a period of four weeks and if such a representation is received by respondent-school, then it be decided by passing a speaking order within a period of 12 weeks and the fate of the representation be made know to petitioner within two weeks thereafter, so that petitioner may have recourse to law as available.

7. With aforesaid directions, this petition is disposed of.

(SUNIL GAUR)
JUDGE

MARCH 13, 2018

mamta