

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

Date of Order: February 15, 2018

+ W.P.(C) 5946/2016

RAVINDER KUMAR JAIN Petitioner
Through: Mr. Shravan Dev, Advocate with
petitioner in person

Versus

THE DIRECTOR OF EDUCATION, GOVT. OF NCT OF DELHI
& ORS. Respondents

Through: Mr. Santosh Kumar Tripathi,
Advocate for respondent No.1-DoE
Mr. Amit Dayal, Advocate for respondents
No.3 & 4

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Petitioner, who was working as Trained Graduate Teacher (TGT) in Social Science, had submitted an application for re-employment on 26th August, 2011, as he was to superannuate on 30th November, 2011. Petitioner's application for re-employment was approved by Management Committee of respondent-School in its meeting held on 17th September, 2011 and petitioner's case for re-employment for two years was forwarded to respondent- *Directorate of Education* on 24th December, 2011 and objections raised by respondent –*Directorate of Education*

were removed by respondent-School on 25th February, 2012 but the date when objections were raised is not disclosed.

2. It is the stand of respondent-School that again on 4th April, 2012, some other objections were raised by respondent- *Directorate of Education*, which were removed and petitioner's case was resubmitted. It is the case of respondent-School that unnecessary objections were raised by respondent- *Directorate of Education* again, which were removed and petitioner's case was resubmitted on 21st June, 2012 but the counter affidavit filed by respondent- *Directorate of Education* is silent about petitioner's case resubmitted by respondent-School in August, 2012. It is also the case of respondent-School that once again petitioner's application was returned by respondent-*Directorate of Education* in November, 2012, which somehow got misplaced and since it could not be traced, a duplicate file was prepared by respondent-School and was submitted to respondent- *Directorate of Education* on 17th April, 2013.

3. Respondent-School in its counter affidavit maintains that petitioner had continued to teach after his retirement for a period of two years at his own risk and petitioner had submitted an undertaking to respondent-School that he would not claim salary in the event of his reappointment not being approved by respondent- *Directorate of Education*. The aforesaid aspects cannot be cross checked from counter affidavit filed by respondent- *Directorate of Education* for the reason that counter affidavit of respondent-*Directorate of Education* was filed prior to filing of counter by respondent-School.

4. Impugned order of 10th February, 2014 (*Annexure P-19 colly*) reveals that petitioner's case for re-employment could not be considered

by the competent authority, as the period of re-employment had expired. Petitioner was informed about impugned rejection of 10th February, 2014 (*Annexure P-19 colly*) vide communication of 18th February, 2014 by speed post.

5. It is the case of petitioner that he had submitted two letters of 3rd November, 2014 and 12th January, 2015 to respondent- *Directorate of Education* seeking release of his salary for the period of re-employment and respondent- *Directorate of Education* vide impugned letter of 6th June, 2015 (*Annexure P-27*) has declined to reconsider petitioner's case while noting that his case for approval for re-employment was received by respondent – *Directorate of Education* on 3rd December, 2013 i.e. after expiry of period of re-employment.

6. Upon hearing and on perusal of impugned orders (*Annexure P-19 colly & P-27*) and the material on record, I find that petitioner's case for re-employment was sent by respondent-School to respondent- *Directorate of Education* after he had retired. Attention of this Court is drawn to Communication of 25th February, 2012 (*Annexure P-9*) which reveals that a copy of full Resolution of School's Management Committee was sought by respondent- *Directorate of Education* and the same were re-submitted by respondent-school on 4th April, 2012 (*Annexure P/10*). As per Communication of 21st June, 2012 (*Annexure P-7*), respondent-School had brought to the notice of respondent – *Directorate of Education* that the aforesaid Resolution has been already attached. As per Communication of 9th August, 2012 (*Annexure P-12*), petitioner's file for re-employment was again resubmitted, as the said file was received by respondent – School with the remarks "*please speak*".

7. In the considered opinion of this Court, respondent- *Directorate of Education* has no valid justification to decline its approval merely on the ground that petitioner's case for re-employment was received after the date of his retirement. Petitioner's claim for payment of his salary cannot be negated on the ground that the period of re-employment has come to an end. It is so said because petitioner has already worked during the period of re-employment and the delay in granting approval to petitioner's re-employment cannot be attributed to him. Since no valid reason is forthcoming for denial of approval to petitioner's re-employment, therefore, it is deemed appropriate to direct respondent- *Directorate of Education* to ensure that petitioner's salary for the period of his re-employment is paid to him within a period of twelve weeks.

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

(SUNIL GAUR)
JUDGE

FEBRUARY 15, 2018

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