

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
*Date of Order: May 29, 2018*

+ **W.P.(C) 8172/2017**

KIRANJOT SINGH .....Petitioner  
Through: Ms. Awantika Manohar, Advocate  
versus

DIRECTORATE OF EDUCATION & ANR. ....Respondents  
Through: Mr. Puneet Mittal, Senior  
Advocate with Mr. Ankur Goel, Advocate

**CORAM:**  
**HON'BLE MR. JUSTICE SUNIL GAUR**

**ORDER**  
**(ORAL)**

1. Impugned order of 17<sup>th</sup> May, 2017 (*Annexure-A/32*) declines petitioner's application for re-employment, while noting that on 2<sup>nd</sup> February, 2017, a warning was issued to petitioner to abstain herself from inflicting corporal punishment, which was preceded by a Show-Cause Notice of 31<sup>st</sup> January, 2017. Impugned order also notes that Show-Cause Notice of 15<sup>th</sup> February, 2017 was issued to petitioner for her misconduct in the Principal's room and that complaints were received from the parents and the students. Impugned order concludes that all relevant records, including ACRs and memo issued to petitioner for the last five years, have been perused and thereafter, re-employment has been denied to petitioner.

2. The challenge to impugned order by petitioner's counsel is on the ground that denial of re-employment to petitioner is arbitrary and not in conformity with the Notification of 29<sup>th</sup> January, 2007 (*Annexure-A/2*)

colly.). It is pointed out by petitioner's counsel that re-employment to all the retiring teachers upto PGT level is to be automatically allowed, subject to fitness and vigilance clearance.

3. Learned counsel for petitioner submits that service record of petitioner has been good and the complaint regarding inflicting of corporal punishment to a student is false and that various memos have been issued to petitioner on frivolous grounds of talking on mobile phone during class and on account of her being late for substitution classes, refusal to collect fees, etc. It is submitted by petitioner's counsel that petitioner is recipient of '*letter of appreciation*' from Human Resource Development Minister in the year 2014 and Role Model Teacher Award has been bestowed upon petitioner in the year 2015, which justifies re-employment of petitioner. It is also pointed out by petitioner's counsel that *Maullana Abul Kalam Azad Excellence Award for Education-2015* has been bestowed upon petitioner on account of her distinguished service in the field of education.

4. It is pointed out by petitioner's counsel that in the year 2012-13, one memo was given to her for recording wrong entry of marks and in the year 2013-14, three memos were given to her and one of which was regarding refusal to collect fees and remaining two memos for being late for classes. It is highlighted by petitioner's counsel that in the year 2014-15, no memo was given to her and in the year 2015-16, one memo was given to her for being engrossed on her mobile phone while in class and in the year 2016-17, three memos and two Show-Cause Notices were issued to her, which were all manipulated to deny re-employment to

petitioner. Lastly, it is submitted by petitioner's counsel that petitioner has 34 years of unblemished service to her credit and is eligible for re-employment in terms of Notification of 29<sup>th</sup> January, 2007 (*Annexure-A/2 colly.*). Learned counsel for petitioner submits that before petitioner was due for retirement, an Advertisement for the post of TGT General Science was advertised. Reliance is placed by petitioner's counsel upon Supreme Court's decision in *Kranti Associates Private Limited and Another vs. Masood Ahmed Khan and Others* (2010) 9 SCC 496 to submit that recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial power or even administrative power and since the impugned order is bereft of reasons, therefore, it ought to be set aside.

5. Learned senior counsel for respondent-School supports impugned order and submits that the advertised post was of TGT whereas petitioner was PGT and that there was no animosity against petitioner, whose service record for the last five years prior to her retirement speaks for itself. It is disputed by senior counsel for respondent-School that petitioner has an unblemished service record, as it is pointed out that several memos were issued to her on various occasions and after an enquiry, she was let off with a warning in a case where she had committed serious misconduct of inflicting corporal punishment upon two students. Reliance is placed upon decision of Division Bench of this Court in *Manohar Lal vs. Govt. of NCT of Delhi & Ors.* (2015) 219 DLT 140 to submit that the right is to be considered for re-employment and not of re-employment. Thus, it is submitted that petitioner has been duly

considered for re-employment and due to her service record, she has not been re-employed.

6. Upon hearing and on perusal of impugned order, material on record and the decisions cited, I find that though the Notification of 29<sup>th</sup> January, 2007 (*Annexure-A/2 colly.*) provides for automatic re-employment to all retiring teachers, but it is subject to fitness and vigilance clearance. Not only this, the professional fitness is to be assessed upon considering the work and conduct of an employee. The record has been produced by respondent-School and on its perusal, it becomes evident that on 28<sup>th</sup> July, 2016, on a surprise inspection, it was found that petitioner was engrossed on her mobile phone for more than ten minutes in the class and did not even notice the inspection team and students of the class were roaming in the corridor and petitioner did not bother to control their movement. Considering this to be a serious lapse, an explanation was called from petitioner. Although petitioner was let off with a warning, but it does not dilute the misconduct of inflicting corporal punishment.

7. Though petitioner has received the *Role Model Teacher Award* and '*letter of appreciation*' from Human Resource Development Minister, but the misconduct attributed to her in the year 2016-17 clearly disentitles petitioner to re-employment. Pertinently, one of the memos issued to petitioner concerns about being not punctual. Even if petitioner's ACRs are good, but still the conduct of petitioner, as highlighted in various memos, justifies denial of re-employment to petitioner.

8. The necessity of recording reasons, as highlighted by Supreme Court in *Kranti Associates (supra)*, arose in a case of National Consumer

Dispute Redressal Commission dismissing the revision petition by cryptic order. The assessment of a teacher for re-employment cannot be judged on the parameters of a reasoned order. Otherwise also, I find that impugned order and the counter-affidavit filed by respondent-School sufficiently justifies the denial of re-employment to petitioner.

9. In *Manohar Lal (supra)*, a Division Bench of this Court has clarified that right of a teacher is not to re-employment but to be considered for re-employment, which has been done in the instant case. In the considered opinion of this Court, re-employment is subject to teacher's work and conduct, which in case of petitioner is adverse. Thus, no case for quashing the impugned order is made out. Denial of re-employment to petitioner is found to be amply justified.

10. In light of the aforesaid, finding no substance in this petition, it is dismissed.

**(SUNIL GAUR)**  
**JUDGE**

**MAY 29, 2018**  
v/s