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

+ W.P.(C) 3757/2011

THE MANAGEMENT OF MAYO
INTERNATIONAL SCHOOL

..... Petitioner

Through Mr. Vikram Singh Dahiya,
Mr. Manish Narang, Mr. Rajeshwar
Nagpal and Mr. C. Shekhar Malhotra,
Advocates.

versus

SANDHYA AGGARWAL

..... Respondent

Through Mr. Sonal Sinha, Ms. Aastha
Vashistha and Ms. Sarabjeet kaur,
Advocates for R-1.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

% **20.02.2019**

Vide the present petition, the petitioner/School has challenged the order dated 18.03.2011 passed in Appeal No.01/2008 by the Delhi School Tribunal whereby the appeal filed by the respondent was allowed.

Learned counsel appearing on behalf of the petitioner submits that the work of respondent/appellant was unsatisfactory for which she was orally warned time and again. Instead of removing her short comings and conducting herself in a proper manner, she continued with her irresponsible and undisciplined behaviour. She also created unruly scene and openly started abusing management of the petitioner's school. It was not in a good taste. Therefore, the management was left with no option but to take the step of her removal from her service.

He further submits that the respondent was on probation, therefore, no notice was required to be given before removing from service.

It is admit fact that after the appointment of the respondent, there is no any communication sent by the petitioner for improving her work and conduct. It is also not in dispute that no removal order has been passed, however, orally stated to the respondent by the school authority on 09.10.2007 that she need not come to the school from tomorrow i.e. 10.10.2007.

Being aggrieved, the respondent challenged their action before the Tribunal in the appeal.

As per appointment letter dated 22.03.2007, the respondent was appointed on probation for a period of one year from date of joining. The same period of probation is further liable to be extended for one year solely at the discretion of the Managing Committee. During or at the expiry of the said period of probation, the Managing Committee shall have the right to terminate services without any notice or without assigning any reason.

Regarding misconduct, there is no complaint from any corner and to this effect, there is no enquiry conducted against the respondent. Moreover, the termination order has also not been passed, however, she was asked not to come to the school w.e.f. 10.10.2007.

As stated by learned counsel for the petitioner stated that that they orally asked to improve and orally terminated her from service. Admittedly, the petitioner is running a school which is recognised under Delhi School Education Act & Rules, 1973 (hereinafter referred as 'the said act') and running under the said Act and Rules. It is admitted that under Section 8 (2) and Rule 105 of the said Act and Rules, the prior permission of the

Directorate of Education has not been taken while removing from the service, which is mandatory as per the said Act and Rules.

In view of the above, I find no illegality and perversity in the order dated 18.03.2011 passed by the Tribunal.

As stated by learned counsel for the petitioner that the respondent might have worked somewhere from 10.10.2007 to date of order dated 18.03.2011 passed by the Tribunal.

Accordingly, I hereby modify the order of the Tribunal by directing the petitioner that the back-wages of the respondent shall be paid if the respondent produce the certificate of unemployment during the period from 10.10.2007 to 18.03.2011.

The petition is accordingly disposed of.

SURESH KUMAR KAIT, J

FEBRUARY 20, 2019

Pallavi