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

+ ***Date of Decision: October 23, 2019***

% **W.P.(C) 7341/2013**

SUNIL KUMAR CHHILLAR Petitioner

Through: Ms. Sana Ansari, Advocate.

versus

B.G.S. INTERNATIONAL PUBLIC
SCHOOL & ORS

..... Respondents

Through: Mr. A.K. Pandey and Mr. Sunil
Kumar, Advocates for R-1.

Ms. Ayushi Chaudhary, proxy
counsel for Ms. Niddhi Raman,
Advocate for R-2 & 3 with
Ms. Tira Mishra, OSD Zone 21.

CORAM:
HON'BLE MR. JUSTICE A.K. CHAWLA

ORDER

A.K. CHAWLA, J. (ORAL)

By the instant petition, the petitioner, who was employed by the respondent school–B.G.S. International Public School in short ‘BGS’ as a PGT (Chemistry) w.e.f. 24.07.2008 in the pay scale of Rs.6500-13000 but resigned, seeks the following reliefs:-

“a) For payment of arrears of salary to the petitioner in view of the implementation of 6th pay commission;

b) For payment of salary for the months of May, June and July (08-days) 2009;

c) For payment of deducted salary inspite of Leaves available, PF etc;

d) For payment of salary difference for the entire service at BGSIPS.

e) For payment of Annual bonus as applicable.

f) For payment of interest @12% p.a. on all the payments from the date of due till the date of payment.

g) Any other or further order(s) which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case may also be passed in favour of the petitioner and against the respondent, in the interest of justice."

2. During the course of hearing, learned counsel for the petitioner, on instructions, states that the petitioner restricts the reliefs only in terms of prayer clauses (a) and (b) besides prayer sub-clause (f). The others reliefs are thus not pressed.

3. It is not in dispute that the petitioner was appointed to the permanent post, though, initially, he was put on probation for a period of one year. It is an undisputed fact that during the period of such probation, he sought to resign and tendered his resignation vide letter dated 08.07.2009, which reads as under:-

"With due respect I Sunil Kumar Chillar, have to state that I am working in your Institute as a PGT Chemistry.

With reference to my application dated 01 July 2009, I am submitting my resignation with effect from 08.07.2009 (AN) due to personal reasons. So, you are requested to accept my resignation with immediate effect."

4. Though, the resignation letter speaks for the petitioner's resignation with immediate effect from 08.07.2009 (afternoon), it, simultaneously, speaks for its being accepted. In other words, the petitioner tendered resignation subject to its acceptance. The respondent school accepted the resignation and conveyed so to the petitioner vide its communication dated 19.09.2009, as under:-

"This is with reference to your resignation letter dated 08.07.09, received by us on the same date, the Management Committee of the school has accepted your resignation vide its resolution dated 13.07.09 w.e.f 14.07.09.

Please note that you have not given one month notice as mentioned in your appointment letter, but even after that the Management has decided to relieve you from your duties. All dues have been cleared by the school."

5. When the two communications dated 08.07.2009—the resignation letter submitted by the petitioner and the letter dated 19.09.2009—acceptance of resignation, are read in conjunction with each other, it emerges, the acceptance for resignation was bilateral, which took place w.e.f. 14.07.2009.

6. As regards the claim towards arrears of salary in view of implementation of 6th Pay Commission, learned counsel for the respondent strenuously contends that the petitioner is not entitled to such claim as during the period of his service, he was on probation and was not yet confirmed to the post, to which, he was appointed. As regards the other claim towards payment of salary for the months of May, June and July (8 days) 2009, it comes to be contended that the petitioner was

not entitled to such dues, as he did not give any notice of 30 days or two more or so, to quit.

7. The Court does not find any merit in either of the submissions made. The financial upgradation provided under the 6th Pay Commission has the statutory force, which cannot be denied on the mere premise that the employee was on probation. More so, when no Rule, Regulation or the Law comes to be pointed out in support of such submissions. As regards any period of notice to be given, the learned counsel for the respondent is equally unable to point out any term or condition in the appointment letter dated 25.07.2008—which forms part of the paper book as Annexure P-1, which requires the petitioner to give such notice. Even otherwise, the Court considers, when the acceptance of the resignation is bilateral, the petitioner could not be invited with deduction of any salary towards any notice period, assuming, even if it was so.

8. Learned counsel for the respondent also contended that there was delay in approaching the Court inasmuch as the claims made in the petition were of the year 2009, whereas, the writ petition came to be filed in the year 2013. As regards such plea of delays and laches, it would suffice to observe that the petitioner shortly after the acceptance of the resignation had made representations to the school to release his dues. Not only that, he has been making repeated representation to the school as also the Director of Education to get his dues, which form part of the paper book. Taking note of the entire material on record and the

factual conspectus emerging therefrom, the Court is of the considered view that the petition filed does not suffer from any delays and laches.

9. For the forgoing reasons, prayers (a) and (b) in the writ petition are granted. However, taking note of the fact that the petitioner chose to tender his resignation during probation period itself and without giving sufficient notice and his such action would have subjected the school authorities as also the students to hardship, and the totality of the facts and circumstances, this Court is not inclined to grant any relief towards interest on the outstanding dues, which would be payable to the petitioner in terms of prayers (a) and (b). It is however directed that the outstanding dues in terms of prayers (a) and (b) shall be released to the petitioner within six weeks from today, failing which, the arrears so becoming due and payable, shall attract interest @ 9 % p.a. from the date of filing of the petition till payment.

10. The petition stands disposed of accordingly.

Order *dasti* under the signature of Court Master.

A.K. CHAWLA, J.

OCTOBER 23, 2019

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