

\$~A-95

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

%

Date of decision: 03.12.2020

+ W.P.(C) 9798/2020
DINESH KHULLAR

..... Petitioner

Through: Mr. Girish Sharma, Advocate

versus

DIRECTORATE OF EDUCATION AND ANR..... Respondents

Through: Ms. Avnish Ahlawat, Standing
Counsel GNCTD (Services) with
Mr. N.K. Singh & Ms. Palak
Rohmetra, Advocates for R-1
Mr. Puneet Mittal, Sr. Advocate
with Mr. Rupendra Pratap Singh &
Ms. Vasudha Bajaj, Advocates for
R-2.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

JYOTI SINGH, J. (ORAL)

CM APPL. 31217/2020

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 9798/2020

1. Petitioner was appointed as Hostel Superintendent, on temporary basis, by Respondent No. 2 on 18.07.2016 and the appointment was further extended for limited periods. Thereafter the Petitioner was appointed on regular basis after undergoing the procedure for selection through an interview and was placed on probation for one year from 23.11.2016 to 23.11.2017. The probation period was extendable by one year as per the terms of the appointment letter.
2. Vide order dated 21.11.2019 Respondent No. 2 considered the Petitioner for confirmation but decided not to confirm the service of the Petitioner and discharged him.
3. Challenge in the present petition is to non-payment of a sum of Rs. 1,76,337/- to the Petitioner in lieu of three month's notice period, which according to the Petitioner was mandatory before discharging the Petitioner.
4. Learned counsel for the Petitioner seeks to argue that the discharge order has been passed without the approval of the Directorate of Education under Section 8 (2) of the Delhi School Education Act and Rules, 1973. It is also argued that the Petitioner could not have been discharged without a notice period of three months or salary in lieu thereof.
5. In so far as the challenge to the discharge order is concerned, the same can only be assailed before the Delhi School Education Tribunal in view of the binding dicta of the Supreme Court in *Shashi Gaur vs. NCT*

of Delhi, [(2001) 10 SCC 445]. Petitioner has in the present petition claimed the release of sum of Rs. 1,76,337/- in lieu of the notice period. Mr. Puneet Mittal Learned Senior Counsel for Respondent No. 2 rebuts the submission of counsel for the Petitioner and argues that no notice is required to be given as the Petitioner was discharged while on probation due to unsuccessful completion of the probation period.

6. However, during the course of hearing, Mr. Mittal, on instructions, has offered to pay to the Petitioner a sum of Rs. 1,76,337/- subject to his undertaking that he shall not challenge the order of discharge dated 21.11.2019, impugned in the present petition.

7. Matter was passed over for Mr. Girish Sharma, learned counsel for the Petitioner, to take instructions from the Petitioner with regard to the said proposal. On second call, Mr. Sharma states that the Petitioner is willing to accept the proposal and on receipt of sum of Rs. 1,76,337/- he shall not challenge the discharge order dated 21.11.2019 in any Court.

8. Since the parties have amicably resolved their disputes, it is directed that Respondent No. 2 shall pay a sum of Rs. 1,76,337/- to the Petitioner within a period of one week from today, against acknowledgment, by way of a Demand Draft. Petitioner shall remain bound by his oral undertaking that on receipt of the above mentioned amount he shall not challenge the discharge order dated 21.11.2019 in any Court.

9. In view of the settlement between the parties no further orders are required to be passed in the present petition, which is accordingly disposed of.

10. It is, however, made clear that in case Respondent No. 2 does not make payment of the amount mentioned above to the Petitioner within the time limit given above, it shall be open to the Petitioner to take recourse to the remedies available to him, in law, to assail his discharge.

JYOTI SINGH, J.

DECEMBER 03, 2020

rd

