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

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Date of decision: 17.12.2020

+ W.P. (C) 13032/2019
CHARU JAIN

..... Petitioner

Through Ms. Sneha Mukherjee and Mr.
Sadiq Noor, Advocates.

versus

DIRECTORATE OF EDUCATION, GNCT OF
DELHI AND ANR.

.... Respondents

Through Ms. Mini Pushkarna, Ms.
Khushboo Nahar and Ms. Latika
Malhotra, Advocates for R-1.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

JYOTI SINGH, J. (ORAL)

Hearing has been conducted through Video Conferencing.

1. Present writ petition has been filed by the Petitioner seeking the following reliefs:-

- a. *To quash the termination letter 10.08.2019 by respondent no. 2 and reinstate the petitioner on post of TGT Sanskrit.*
- b. *To direct the respondent no. 2 to reserve the vacant post of TGT Sanskrit pending hearing and disposal of the present case.*

- c. To direct the respondent No. 1 to release salary of the petitioner due for one year of her service.*
- d. To direct the respondent no. 1 to treat the petitioner in continuation of service after reinstating the petitioner on the post of TGT Sanskrit from date of initial appointment.*
- e. To direct the respondent no. 1 and respondent no. 2 to consider the effective date of appointment and calculation of seniority from the first appointment date.*
- f. To direct the respondents for costs of the petition.*

2. The substantial relief sought in the present petition is for quashing the termination letter dated 10.08.2019 issued by Respondent No. 2/School as well as for reinstatement. A consequential relief for release of salary for the period that the Petitioner has rendered service prior to the termination has also been sought.

3. Ms. Sneha Mukherjee learned counsel for the Petitioner fairly submits that since the issue of termination can only be agitated by remedy of an appeal before the Tribunal, the Petitioner does not press the said prayer.

4. Petition is accordingly disposed off with the liberty to the Petitioner to assail the termination order by way of an appeal before the Delhi School Education Tribunal constituted under Section 11 of the Delhi School Education Act and Rules, 1973.

5. In so far as the relief of salary for the period that the Petitioner has rendered service with the School, is concerned, the question whether the

appointment of the Petitioner was valid or otherwise will be decided by the Tribunal, but the Petitioner cannot be deprived of the salary for the period for which she has worked. Taking into account the totality of facts and circumstances, the Director of Education is directed to release 95% of the dues payable to the Petitioner and the School shall contribute the remaining 5%. The payments shall be disbursed within a period of two weeks from today. The payments so made shall be without prejudice to the rights and contentions of either of the parties and the question of liability/responsibility to make such payment is left open and shall be decided at the appropriate stage.

6. I am fortified in my view on aspect of release of salary by a decision of the Co-ordinate Bench in ***Ms. Manisha Singh v. Govt. of NCTD and Ors., W.P. (C) 438/2020 dated 24.02.2020*** wherein the Court had directed the Directorate of Education to release 95% of the dues towards the Petitioner's salary and 5% was to be paid by the School without prejudice to the rights and contentions of the parties. In somewhat similar circumstances. Relevant part of the order is as under:-

“Taking into account the totality of facts and circumstances and without prejudice to the rights and contentions of either of the parties, the Director of Education is directed to release 95% of the dues towards the petitioner's salary within two weeks from today and within seven days of the receipt thereof, the respondent no. 3 shall contribute the remaining 5% and remit the dues towards salary for the period the petitioner has undisputedly discharged the duties of the TGT (English) with the respondent no. 3 – School. Such compliance should be made without waiting for other formalities to be fulfilled. The question of the actual responsibility or the liability to make payment of such dues inter se the respondent no. 3 – School

and/or the Director of Education, Govt. of NCT of Delhi, is however kept open for consideration by the Court.”

7. It is made clear that this Court has not expressed any opinion on the merits of the case.

JYOTI SINGH, J

DECEMBER 17, 2020 /yo

