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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 6340/2020**

SANJAY

..... Petitioner

Through: Mr. Khagesh B. Jha, Advocate

versus

DR. S.R.S. MISSION SCHOOL & ORS

..... Respondents

Through: Mr. V. Balaji, Advocate for DOE/R-2

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **14.09.2020**

Hearing has been conducted through Video Conferencing.

CM APPL. 22516/2020

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 6340/2020 & CM APPL. 22517/2020

Present petition lays a challenge to the resignation tendered by the Petitioner which has been accepted by the Respondent School. Disputes raised in the present petition directly touch upon the legality or otherwise of the resignation.

Supreme Court in the case of *Shashi Gaur vs. NCT of Delhi & Ors. (2001) 10 SCC 445* has clearly held that all kinds of termination except where the service comes to an end with efflux of time would be amenable to the Delhi School Education Tribunal constituted under Section 11 of the Delhi School Education Act and Rules, 1973.

In a recent judgement, a Coordinate Bench of this Court in W.P.(C) 2275/2016 titled ***G.D. Goenka Public School & Ors. vs. Vinod Handa & Ors.***, has clearly held that ‘termination’ shall include ‘resignation’ and therefore disputes with respect to resignation would be amenable to the jurisdiction of the Tribunal.

Relevant part of the judgement in ***Shashi Gaur (supra)*** is as under:

“7. This judgment and the interpretation put to the provisions of sub-sections (2) and (3) of Section 8 undoubtedly is of sufficient force. But, the question for our consideration would be that, would it be appropriate for us to give a narrow construction to sub-section (3) of Section 8 thereby taking the teachers whose services were terminated not by way of dismissal, removal or reduction in rank but otherwise, out of the purview of the Tribunal constituted under Section 11 of the Act. The statute has provided for a Tribunal to confer a remedy on the teachers who are often taken out of service by the caprices and whims of the management of the private institutions. The governmental authorities having been given certain control over the action of such private management, if an appeal to the Tribunal is not provided to such an employee, then he has to knock the doors of the court under Article 226 of the Constitution which is a discretionary one. The remedy provided by way of an appeal to the Tribunal is undoubtedly a more efficacious remedy to an employee whose services stand terminated after serving the institution for a number of years, as in the present case where the services are terminated after 14 years.

8. In this view of the matter, we are persuaded to take the view that under sub-section (3) of Section 8 of the Act, an appeal is provided against an order not only of dismissal, removal or reduction in rank, which obviously is a major penalty in a disciplinary proceeding, but also against a termination, otherwise except, where the service itself comes

to an end by efflux of time for which the employee was initially appointed. Therefore, we do not find any infirmity with the order of the High Court not entertaining the writ application in exercise of its discretion though we do not agree with the conclusion that availability of an alternative remedy ousts the jurisdiction of the court under Article 226 of the Constitution.”

At this stage, Mr. Jha learned counsel for the Petitioner seeks to withdraw the petition with liberty to approach the Delhi School Education Tribunal.

Petition along with accompanying Application is accordingly disposed of as withdrawn, with liberty as aforesaid.

JYOTI SINGH, J

SEPTEMBER 14, 2020
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