



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

Date of decision: 20th JULY, 2022

IN THE MATTER OF:

+ **LPA 410/2022 & CM APPLs. 30612-13/2022**

JITENDER KUMAR

..... Appellant

versus

JASPAL KAUR PUBLIC SCHOOL & ANR.

..... Respondents

+ **LPA 411/2022 & CM APPLs. 30648-49/2022**

GHANSHYAM JHA

..... Appellant

versus

MATA JAI KAUR PUBLIC SCHOOL & ANR.

..... Respondents

+ **LPA 412/2022 & CM APPLs. 30675-76/2022**

RAMPAL SINGH

..... Appellant

versus

JASPAL KAUR PUBLIC SCHOOL & ANR.

..... Respondents

+ **LPA 414/2022 & CM APPLs. 30682-83/2022**

BRIJPAL SAINI

..... Appellant

versus

JASPAL KAUR PUBLIC SCHOOL & ANR.

..... Respondents

+ **LPA 415/2022 & CM APPLs. 30684-85/2022**

FAUJA SINGH

..... Appellant

versus

MATA JAI KAUR PUBLIC SCHOOL & ANR.

..... Respondents



+ **LPA 416/2022 & CM APPLs. 30692/2022 & 30755/2022**
RAM BARAN Appellant

versus

MATA JAI KAUR PUBLIC SCHOOL & ANR. Respondents

+ **LPA 417/2022 & CM APPLs. 30813-14/2022**
VIJAY KUMAR PANDEY Appellant

versus

MATA JAI KAUR PUBLIC SCHOOL & ANR. Respondents

+ **LPA 220/2022**
MOHINDER SINGH Appellant

versus

JASPAL KAUR PUBLIC SCHOOL & ANR. Respondents

MEMO OF APPEARANCE:

Mr. Ramesh Kumar Mishra, Mr. Rajnish Kumar Singh & Mr. Mukesh Kumar, Advocates for the Appellants.

Mr. Anil Bhatt, Ms. Chand Chopra & Mr. Siddharth Shekhar, Advocates for the Respondents No. 1 & 2.

CORAM:
HON'BLE CHIEF JUSTICE
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

SUBRAMONIUM PRASAD, J.

1. *Vide* the present appeals, the Appellants seek to challenge the Order dated 12.11.2021, passed by a learned Single Judge of this Court in a batch



of writ petitions, being W.P.(C) No.9188/2019, W.P.(C) No.9191/2019, etc., whereby the learned Single Judge of this Court has dismissed the aforementioned writ petitions and has affirmed the Order dated 03.05.2019, passed by the Presiding Officer, Labour Court, Rouse Avenue Court Complex, New Delhi, by which the claims of the Appellants herein/workmen have been dismissed as not maintainable.

2. Facts of the case reveal that the Appellants were appointed to various posts by the Respondent No.1 (*hereinafter referred to as 'the school'*). It is stated that the Appellants herein/workmen were retrenched by an Order dated 31.05.2016. The Orders of retrenchment were challenged by the Appellants herein/workmen before the Delhi School Tribunal (*hereinafter referred to as 'the Tribunal'*). The Tribunal *vide* Order dated 15.02.2017 rejected the appeals filed by the Appellants herein. In the appeal it was contended that the retrenchment Order dated 31.05.2016 is illegal and bad in law. The Tribunal held that the provisions of Delhi School Education Act will not be applicable to the Appellants because the School is a minority institution. It is noted in the said Order that prior to approaching the Tribunal, the Appellants had already challenged the Order of retrenchment before the concerned authority under the Industrial Disputes Act, 1947 (*hereinafter referred to as 'the I.D. Act'*) *vide* registered diary No.2538 dated 01.06.2016, but the Appellants have not disclosed the same in the appeal filed before the Tribunal. The Tribunal was of the opinion that the Appellants herein have not come to the Court with clean hands. The Tribunal also found that *vide* Order dated 11.07.2016, the proceedings initiated by the Appellants under the I.D. Act were dismissed in default. The Tribunal also observed that the Appellants could not point out any flaw in the retrenchment Order/letter dated 31.05.2016 and the School has followed



all the provisions of Section 25F of the I.D. Act while retrenching the Appellants from the service. The Appellants herein challenged this Order by filing a batch of writ petitions, being W.P.(C) 4335/2017, 4344/2017, etc. The learned Single Judge of this Court *vide* Order dated 19.05.2017 dismissed the writ petitions by observing that Section 25F(c) of the I.D. Act has been followed by the School. Order dated 19.05.2017 was taken up by the Appellants before the Division Bench of this Court by filing LPA 616/2017. The Division Bench of this Court disposed of the said LPA by passing the following Order:

" It is pointed out that the limited ground urged in this appeal is that the learned Single Judge despite noticing that the provisions of Section 25 F(c) of The Industrial Disputes Act, 1947 have not been complied with and further noticing that the pleadings in that regard did not support arguments, proceeded to render findings. It is submitted therefore that the appellant / workman may be permitted to withdraw the present appeal with liberty to pursue remedy in accordance with law under The Industrial Disputes Act, 1947.

Liberty granted. This appeal and pending application are accordingly dismissed as withdrawn."

3. In view of the liberty granted by the Division Bench of this Court, the Appellants once again initiated proceedings under the I.D. Act. Objections were raised by the School and an application was filed before the Presiding Officer, Labour Court, Dwarka Courts, New Delhi, in LIR/1474/2018, seeking rejection of the claims of the Appellants herein on the ground that the issue has already been settled by the Tribunal which has been affirmed by this Court *vide* Order dated 19.05.2017. The Labour Court *vide* Order dated 03.05.2019 held the objections of the School and rejected the claim of



the Appellants herein on the ground that the issue has already been adjudicated and, therefore, the Appellants cannot raise the plea that Section 25F(c) of the I.D. Act has not been followed. Thereafter, an application was filed by the Appellants seeking clarification of the Order dated 15.09.2017 which was withdrawn on 05.08.2019. Order dated 03.05.2019 has been challenged by the Appellants by filing a batch of writ petitions which have been rejected by the Order impugned herein.

4. Heard Mr. Ramesh Kumar Mishra, learned Counsel for the Petitioner, Mr. Anil Bhatt, learned Counsel for the Respondents No.1 & 2, and perused the material on record.

5. Mr. Ramesh Kumar Mishra, learned Counsel for the Petitioner, contends that the issue as to whether Section 25F(c) of the I.D. Act has been followed or not has not been adjudicated and that the Appellants had approached the Labour Court in view of the liberty granted by the Division Bench of this Court.

6. A perusal of the Order dated 15.09.2017, passed by the Single Bench of this Court in LPA 616/2017, shows that the contention of the Appellants herein that the provisions of Section 25F(c) of the I. D. Act have not been complied with has been noted in the Order sheet and after noting the contention, permission sought by the learned Counsel for the Appellants herein, to withdraw the LPA with liberty to pursue remedy in accordance with law, was granted.

7. Learned Single Judge while hearing the challenge to the Order passed by the Tribunal has recorded a categorical finding in paragraph No.9 wherein it has been observed "it must be held that Section 25F(c) has been followed". In view of the categorical finding given by the learned Single Judge of this Court, the learned Presiding Officer, Labour Court, Dwarka



Courts, New Delhi was justified in coming to the conclusion that the issue has been answered against the workmen and it cannot be re-adjudicated once again in a different forum. The Division Bench of this Court, after analysing the facts of the case, has upheld the Orders dated 03.05.2019 passed by the learned Single Judge. The contention of the learned Counsel for the Appellants that the provisions of Section 25F(c) of the I.D. Act had not been followed, has been rejected by the Tribunal and the learned Single Judge *vide* Order dated 19.05.2017 has categorically held that Section 25F(c) has been followed. As rightly pointed out in the impugned Order that the objection regarding compliance of Section 25F(c) of the I.D. Act has attained finality between the same parties and, therefore, it cannot be permitted to be re-adjudicated again.

8. In view of the above, this Court does not find any infirmity with the Order impugned herein. Accordingly, the LPAs are dismissed. Pending application(s), if any, stand disposed of.

SATISH CHANDRA SHARMA, C.J.

SUBRAMONIUM PRASAD, J

JULY 20, 2022

Rahul