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

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+ W.P.(C) 4642/2019

KARAMBIR (THR. LRS.)

.....Petitioner

Through: Ms. Tanya Rose, Mr. Sidharth Nair
and Mr. Nikhil Pawar, Advocates.

versus

GURU NANAK PUBLIC SCHOOL AND ANR.Respondents

Through: Mr. Tarun Kumar Tiwari, Advocate
for Respondent No.1.
Ms. Latika Choudhury, Advocate for Respondent
No.2/DOE.

17

+ W.P.(C) 4653/2019

AMIT KUMAR

.....Petitioner

Through: Ms. Tanya Rose, Mr. Sidharth Nair
and Mr. Nikhil Pawar, Advocates.

versus

GURU NANAK PUBLIC SCHOOL AND ANR.Respondents

Through: Mr. Tarun Kumar Tiwari, Advocate
for Respondent No.1.
Ms. Latika Choudhury, Advocate for Respondent
No.2/DOE.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

12.07.2024

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1. These writ petitions have been preferred on behalf of the Petitioners challenging impugned orders dated 21.12.2018 whereby their claims for back wages from the date of termination till the date of judgment of the Delhi School Tribunal ('Tribunal') dated 20.11.2018 were rejected.



2. Karambir (deceased), Petitioner in W.P.(C) 4642/2019 was appointed as a Driver by Respondent No.1/School on 23.11.2006 and was terminated vide letter dated 14.09.2017 while Amit Kumar Petitioner in W.P.(C) 4653/2019 was appointed as a Peon on 25.06.2009 and was terminated vide letter dated 14.09.2017, on account of an FIR registered at the behest of one of the female employees on 13.09.2017 under Sections 354A/354D/34 IPC. Termination orders were challenged by the Petitioners before the Tribunal in Appeal Nos. 17/2018 and 18/2018. The Appeals were allowed by the Tribunal vide a common judgment dated 20.11.2018 and the school was directed to reinstate the Petitioners within a period of four weeks with consequential benefits. Insofar as the claim for back wages was concerned, in view of Rule 121 of Delhi School Education Act and Rules, 1973, Petitioners were directed to make representations to the school for claiming back wages. Since the prime reason for setting aside the termination orders was failure to hold a domestic inquiry and obtain prior approval of the Directorate of Education, the Tribunal granted liberty to the school to take action against the Petitioners as per law on the same cause of action with a further direction to conclude the inquiry, if any, within six months.

3. In view of the liberty granted by the Tribunal, Petitioners preferred individual representations dated 01.12.2018, seeking full back wages from the date of termination till the date of the judgment passed by the Tribunal. However, the representations were rejected on 21.12.2018 as Petitioners were placed under suspension. Inquiry was ordered against the Petitioners on allegations of sexual harassment by a female employee. Aggrieved by the orders dated 21.12.2018, Petitioners preferred the present writ petitions seeking full back wages.



4. Learned counsel for the school informs the Court that the disciplinary proceedings initiated against the Petitioners culminated into termination orders dated 07.09.2020, which were challenged by the Petitioners before the Tribunal and by judgment dated 03.07.2024, the Tribunal has upheld the termination orders and dismissed the Appeals. Counsel for the School urges that by the orders impugned in the present writ petitions, the school had not rejected the claim for back wages but had kept the decision in abeyance as Petitioners were suspended on account of contemplated disciplinary proceedings and now that the termination has been upheld, no back wages are payable.

5. Learned counsel for the Petitioners, on the other hand, submits that the Petitioners are taking recourse to challenging the orders of the Tribunal and these petitions be kept pending, awaiting the outcome.

6. Heard counsels for the respective parties and examined their submissions.

7. Challenge in the present petitions is to the impugned orders dated 21.12.2018, whereby the school decided to keep the decision on the back wages sought by the Petitioners, after their termination was set aside on 20.11.2018 by the Tribunal. The decision was taken on account of the fact that pursuant to the liberty granted by the Tribunal, school had ordered a fresh inquiry and had placed the Petitioners under suspension. Therefore, it cannot be said that the claim for back wages was rejected and infact the petitions were premature. As the situation stands today, Petitioners have been unsuccessful in their challenge to the termination orders dated 07.09.2020 as their Appeals have been dismissed by the Tribunal vide judgment dated 03.07.2024. While it is open to the Petitioners to challenge



the order of the Tribunal, if so advised, but at this stage, no purpose will be achieved by keeping these petitions pending, which are directed against the orders keeping the decision on the back wages in abeyance in the wake of contemplated disciplinary proceedings. In wake of the termination orders, Petitioners will have a fresh cause of action to invoke Rule 121 and seek back wages, depending upon the outcome of the challenge to the termination orders, if any.

8. Accordingly, writ petitions are disposed of, giving liberty to the Petitioners to take recourse to the legal remedies against the judgment of the Tribunal dated 03.07.2024 upholding the termination orders dated 07.09.2020 and claim back wages depending upon the outcome, in accordance with law.

JYOTI SINGH, J

JULY 12, 2024

B.S. Rohella/DU