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

+ **W.P.(C) 6899/2003**

RAJESH KUMAR RAVI

.....Petitioner

Through: Mr. Rajat Arora, Mr. Niraj Kumar,
Mr. Ravi Ranjan Mishra and Mr. Sourabh Mahla,
Advocates.

versus

P.O., DELHI SCHOOL TRIBUNAL & ANR.

.....Respondents

Through: Ms. Avnish Ahlawat, Standing
Counsel with Mr. Nitesh Kumar Singh, Ms.
Laavanya Kaushik, Ms. Aliza Alam and Mr.
Mohnish Sehrawat, Advocates for
Respondent/GNCTD.

Mr. J. Rajesh, Mr. Jaitegan Khurana, Mr. Md.
Arsalan Ahmed, Advocates for Respondent No.2.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

09.12.2024

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1. This writ petition was preferred by the Petitioner challenging the judgment of the Delhi School Tribunal dated 17.07.2003 whereby appeal filed by the Petitioner against the penalty of removal from service vide letter dated 12.07.1993, pursuant to disciplinary proceedings, was dismissed.
2. Petitioner joined Airforce Golden Jubilee Institute as a Watchman on 23.03.1987 and his services were regularised on 01.07.1989. He was placed under suspension on 02.08.1991 followed by a chargesheet dated 04.10.1991. The enquiry proceedings culminated into a penalty of censure



and withholding of two increments, which was not challenged. Another chargesheet was issued on 05.08.1992 with three Articles of Charge and on the basis of the enquiry report wherein all charges were held to be proved, Petitioner was removed from service by penalty order dated 12.07.1993.

3. Petitioner filed an Appeal No. 26/1993 challenging the removal order before the DST, which was dismissed on 17.07.2003. Aggrieved by this decision, Petitioner filed the present petition, which was allowed vide judgment dated 16.04.2024. By the said judgment impugned order dated 17.07.2003 passed by DST as also the penalty order dated 12.07.1993 were set aside and it was held that Petitioner will be deemed to have been reinstated from the date of dismissal. Court also awarded 50% back wages with consequential benefits of increments and promotions, if any. It was held that in case the Petitioner had superannuated in the meantime, his retiral benefits shall also be released.

4. This judgment was assailed by the Managing Committee of the School before the Division Bench in LPA No. 741/2024, which was decided on 26.11.2024. The Division Bench declined to interfere with the judgment of the learned Single Judge to the extent penalty of removal from service was set aside, but was of the view that neither party had the opportunity to address arguments on the award of 50% back wages and therefore, while upholding the judgment to the extent of setting aside the removal order, matter was remanded back to hear the parties on the issue of back wages as per law. Insofar as the relief of reinstatement was concerned, the Division Bench observed that the order shall be complied with within two weeks. This is how the writ petition has come back to this Court for a limited adjudication on the aspect of back wages.



5. Learned counsel for the parties have been heard at some length on the issue of back wages. It was put to the counsel for the Petitioner whether grant of back wages is the prerogative of the Managing Committee under Rule 121 of the Delhi School Education Rules, 1973 ('1973 Rules') or this Court can exercise writ jurisdiction to decide the issue. Learned counsel fairly and candidly and in light of the judgment of the Full Bench of this Court in ***Guru Harkishan Public School through its Managing Committee v. Director of Education & Anr., 2015 SCC OnLine Del 9530***, upheld by the Supreme Court in ***Sunil Sikri v. Guru Harkishan Public School and Another, (2022) 16 SCC 85***, submits, on instructions, that Petitioner may be granted liberty to approach the Managing Committee of the School under Rule 121 of 1973 Rules to seek back wages in light of the fact that the penalty of removal from service has been set aside by this Court and upheld by the Division Bench.

6. It is no longer *res integra* that Rule 121 of 1973 Rules expressly confers power on the Managing Committee of a School to consider and pass an order with regard to salary and allowances to be paid to the employee for the period of his absence from duty in case a penalty of dismissal, removal or compulsory retirement from service is set aside and an order is passed for his reinstatement as a result of an appeal. Full Bench of this Court in ***Guru Harkishan Public School (supra)*** so held, on a reference made by the learned Single Judge of this Court vide order dated 27.03.2015, noting a conflict between the decisions of two learned Single Judges. On a challenge made by the employee namely Sunil Sikri before the Supreme Court, the view of the Full Bench was upheld by the Supreme Court in ***Sunil Sikri (supra)*** on 28.07.2022.



7. This Court is conscious of the fact that the matter has been remanded back by the Division Bench of this Court for hearing arguments of the respective parties with respect to back wages after the order imposing penalty of removal from service on the Petitioner has been set aside. However, in light of the judgment of the Supreme Court in ***Sunil Sikri (supra)***, this power at the first instance is conferred on the Managing Committee of the School.

8. Accordingly, with the consent of learned counsels for the parties, this writ petition is disposed of with liberty to the Petitioner to make a comprehensive representation to the Managing Committee of the School under Rule 121 of 1973 Rules seeking back wages and/or other monetary benefits including retiral benefits. As and when the representation is received, a decision will be taken by the Management of the School within six weeks thereafter, considering that this writ petition has been pending in this Court since 2003. In case the Petitioner is aggrieved by the decision of the School, he shall be at liberty to take recourse to appropriate legal remedies, as advised.

JYOTI SINGH, J

DECEMBER 9, 2024

B.S. Rohella/jg