



2024:DHC:5196



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

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Reserved on: 22nd April, 2024

Pronounced on: 9th July, 2024

+ **W.P.(C) 13916/2018**

**THE MANAGEMENT OF GURU HARKRISHAN PUBLIC
SCHOOL & ORS.**

..... Petitioners

Through: Mr. A.P.S Ahluwalia, Sr. Advocate
with Mr. S.S Ahluwalia, Ms. Saniya
Zehra and Mr. Yuvraj, Advocates.

versus

SUNIL SIKRI & ANR.

..... Respondents

Through: Mr. Sanjeev Ralli, Sr. Advocate with
Mr. Mohit Mudgal, Mr. Ravi Kant
Yadav, Mr. Shubham Yadav, Mr.
Chetanya Baweja, Advocates for R-1.

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

J U D G M E N T

CHANDRA DHARI SINGH, J

1. The instant writ petition has been filed on behalf of the petitioners under Articles 226 read with 227 of the Constitution of India seeking setting aside of the impugned order dated 10th October, 2018 passed by the learned Presiding Officer, Delhi School Tribunal, Delhi in Execution Petition bearing No. 66/2011 in Appeal bearing No. 14/1994 thereby awarding full back-wages to the respondents for the period from 18th August, 2011 to 3rd September, 2013.



FACTUAL MATRIX

2. The petitioner is a minority school where the respondent no. 1 namely Mr. Sunil Sikri (“respondent teacher” hereinafter) was appointed as a PGT Chemistry on 2nd July, 1984 on probation basis and his appointment was confirmed via a separate contract on 15th July, 1985.

3. It is alleged by the petitioner that the respondent teacher was involved in an incident involving assault of a teacher at a bus stop in Tilak Nagar, New Delhi on the 22nd January, 1994. The incident was reported to the concerned authority of the petitioner school and the respondent allegedly admitted to committing the assault. Subsequently, the respondent teacher submitted his resignation which was accepted by the petitioner. Thereafter, a relieving order was passed by the petitioner’s management on 9th February, 1994.

4. Pursuant to the above, the respondent teacher withdrew his resignation and contested the petitioners’ decision of passing the relieving order on the grounds of duress and preferred an appeal bearing Appeal No. 14/1994 before the learned Delhi School Tribunal, New Delhi.

5. The learned Tribunal *vide* an order dated 18th August, 2011, held that the letter of resignation was withdrawn by the respondent teacher within permissible time, thus, making it null and void and directed the respondent to be reinstated with 50% back wages.

6. Aggrieved by the aforesaid order, the petitioner preferred a writ petition bearing WP(C) no. 8058/2011 before this Court. The Coordinate Bench of this Court *vide* an order dated 15th November, 2011, granted a stay



on the learned Tribunal's order dated 18th August, 2011, subject to the petitioner depositing 50% of the back wages with the Court.

7. Thereafter, on 6th August, 2013, the Coordinate Bench of this Court disposed of the aforesaid writ petition on the statement of the petitioner school that without prejudice to the rights of the petitioner school, it will take conduct proceedings in accordance with the provisions of **DSEAR** pertaining to the respondent teacher and will reinstate the respondent teacher within two weeks from the said date.

8. It is pertinent to mention here that the issue pertaining to the power of the learned Tribunal to award back-wages was referred to the Full Bench of this Court in the aforesaid writ petition. The Full Bench of this Court vide order dated 23rd September, 2013 *whilst* adjudicating upon the said reference, observed that there was no requirement of reference on the said issue to the Full Bench and accordingly, the said reference was returned. Pursuant to which, the Coordinate Bench of this Court *vide* order dated 7th October, 2013 directed the petitioner school to conduct enquiry into the matter of back- wages due to the respondent teacher in accordance with Rule 121 of the DSEAR.

9. Aggrieved by the aforesaid order, the respondent teacher preferred an appeal bearing LPA No. 853/2013 before the Division Bench of this Court, wherein, based on the consent of the parties to remand back the order passed by the Single Bench of this Court for fresh consideration, it was directed by the Division Bench vide order dated 19th December, 2013 that the writ petition to be re-heard on the issue pertaining to Rule 121 of DSEAR. It was



further clarified that the enquiry pertaining to the issue of back-wages which was in process shall be subject to the decision of the Single Bench of this Court.

10. Thereafter, this Court *vide* order dated 27th March, 2015, again referred the issue of interpretation of Rule 121 to a larger bench for consideration. The Full Bench, *vide* the judgment dated 14th May, 2015, held that the same is the prerogative of the school's management committee to adjudicate upon the issue of back-wages of the employee who has been re-instated in accordance with the Rule 121 of the DSEAR.

11. Aggrieved by the judgment dated 14th May, 2015, the respondent teacher preferred a Special Leave Petition bearing SLP No. 17556/2015 and the Hon'ble Supreme Court *vide* order dated 16th November, 2015 issued notice in the said SLP. Resultantly, this Court adjourned the writ petition bearing no. 8058/2011, *sine die* awaiting the decision of the Hon'ble Supreme Court in the aforesaid SLP.

12. On 26th September, 2015, the Disciplinary Authority instituted by the petitioner school passed the order, dismissing the respondent teacher from his services. The respondent teacher challenged the aforesaid order before the learned Tribunal in Appeal bearing no. 63/2015, the said appeal was dismissed *vide* order dated 21st August, 2018.

13. Thereafter, the respondent filed the execution petition bearing no. 66/2011 in the Appeal no. 14/1994 before the learned Tribunal seeking back wages for the period from the date of the order of learned Tribunal granting reinstatement and till his actual reinstatement.



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14. The learned Tribunal, *vide* the order dated 10th October, 2018, allowed the execution petition entitling the respondent teacher to wages from the date of the learned Tribunal's order reinstating him i.e., 18th August, 2011 until the actual date of his reinstatement i.e., 3rd September, 2014. It was further clarified by the learned Tribunal that this period is not covered by Rule 121 of the DSEAR which only addresses the issue of back wages and does not pertain to wages due post the order of reinstatement until the actual reinstatement.

15. Aggrieved by the order dated 10th October, 2018, the petitioner has filed the instant petition.

16. During the pendency of the instant petition, the Hon'ble Supreme Court, in SLP No. 17556/2015 which was decided as Civil Appeal no. 5562/2017 *vide* the judgment dated 28th July, 2022, dismissed the appeal and upheld the view taken by the Full Bench of this Court in its judgment dated 14th May, 2015 and held that the power to determine back wages lies exclusively with the school's management committee as provided under Rule 121 of the DSEAR.

17. Accordingly, the writ petition bearing W.P.(C) No. 8058/2011 was disposed of *vide* order dated 12th May, 2023 by the Coordinate Bench of this Court, by partially setting aside the order dated 18th August, 2011 passed by the learned Tribunal to the extent of granting back wages, by holding that it is incompetent to determine on the issue of back wages. The Court further directed the respondent to make representation before the petitioner in terms of Rule 121 of DSEAR and the amount of Rs. 4.21 Lakhs already paid



would be taken into consideration while determining the compensation/back-wages payable to the respondent teacher.

PLEADINGS

18. The petitioner has filed the instant petition challenging the impugned order on the following grounds:

“..A. That the learned DST acted illegally and with material irregularity for awarding back wages for the period 18.8.2011 to 03.09.2013 without considering the fact that in terms of the order of this Hon'ble Court the operation of the order dated 18th August, 2011 had been stayed. Consequently, there was no order of reinstatement in operation.

B. That the learned DST acted illegally in the exercise of its jurisdiction by failing to consider that the order of reinstatement dated 11th August, 2011 merged into the order of this Hon'ble Court dated 6th August, 2013 / 3rd September, 2013 when this Hon'ble Court ordered that the Respondent no.1 be reinstated within two weeks subject to holding of enquiry disciplinary proceedings / enquiry against the Respondent no.1.

C. The impugned order dated 10.10.2018 is wholly perverse and without jurisdiction in as much as the learned Tribunal has failed to take into account the orders passed by this Hon'ble Court to the effect that in the very first order this Hon'ble Court was pleased to stay the operation of the impugned order subject to deposit of money in this Hon'ble Court. When the operation of the order of subordinate court has been stayed it would mean that there was no order which is in operation. Consequently, the Respondent no.1 could not have claimed to have been reinstated with effect from 18th August, 2011. It is the order of this Hon'ble Court dated 6th August, 2013 which permits the Respondent no.1 to join the Petitioner/ School and he did join the School and admittedly all the salaries had been paid to the Respondent no.1 with effect from the date when he joined the



School. Hence, the question of awarding any back wages for the period 18.8.2011 to 03.09.2013 did not arise at all.

D. That the learned Tribunal, DST, failed to consider that the order dated 18th August, 2011 stood modified and in other words were set aside to the extent that the reinstatement shall follow with effect from the order dated 6th August, 2013 / 3rd September, 2013 rather than 18th August, 2011. So far as the back wages are concerned, Rule 121 of DSE rules was to be applied. Hence, the impugned order is not only without jurisdiction, illegal, void but also wholly perverse since the same is based on the observations which are against the record as well as the orders of this Hon'ble Court from time to time copies of which have been annexed on the record of this Hon'ble Court.

21. That the Petitioner School has no other efficacious remedy except to file the present Writ Petition under Article 227 of the Constitution of India. Moreover, the Petitioner/ School has not preferred any other appeal or filed any other proceedings in any other court against the impugned order.”

19. The respondent teacher has vehemently opposed the contentions of the petitioner and filed the counter- affidavit on the following grounds:

“...2. That the aforesaid Order dated 18.08.2011 passed by the Delhi School Tribunal was challenged by the petitioner/school before this Hon'ble Court in the Writ Petition No. 8058 of 2011 entitled "Guru Harkishan Public School through its Managing Committee vs. Director of Edu. & Anr. It is submitted that the Hon'ble Court vide Order dated 06.08.2013 (Annexure P- 4) was pleased upheld the issue of reinstatement in favour of the respondent no. 1 by the directing the petitioner school to reinstate respondent no.1 and referred the matter to larger/Full Bench in respect of the issue of back wages. The relevant



portion of the aforesaid Order is reproduced herein below for ready reference

"In view of the above, the writ petition is disposed of so far as the issue of reinstatement by directing the petitioner to reinstate the respondent no.2 as stated above is concerned, however on the aspect of entitlement or otherwise of the Tribunal or this Court to pass orders with respect to back wages of a reinstated employee in view of Rule 121 is concerned, the same is referred to the larger Bench/Full Bench of this Court and the matter be accordingly listed on 23rd September, 2013. "

3. That, in terms of the aforesaid Orders, the Respondent No.1 was reinstated in the petitioner school w.e.f 04.09.2013 whereas in terms of the Order dated 18.08.2011 of the Delhi School Tribunal, which was upheld by this Hon'ble Court qua 4 the issue of reinstatement vide Order dated 06.08.2013, the respondent was to be reinstated w.e.f 18.08.2011 i.e. the date of Order of the learned Delhi School Tribunal.

4. That thereafter, the respondent no.1 made repeated representation to the petitioner school for payment of due wages and other consequential benefits to which the petitioner school have not replied till date. It is pertinent to mention herein that no payment whatsoever has been received/made to the respondent no.1 for the period commencing from 18.08.2011 till 03.09.2013.

5. That, thereafter, the respondent no.1 was constrained to prefer an Execution Petition No. 66 of 2011 before the learned Delhi School Tribunal for execution of the Order dated 18.08.2011 passed in Appeal No. 14 of 1994. It may be noted that the Respondent No.1 also preferred an application bearing No. 20 of 2016 in Execution petition No. 66 of 2011 & Appeal No. 14 of 1994 for proceedings under Section 27 of the Delhi



School Education Act & Rules, 1973 against the manager of petitioner school. It is submitted that learned Delhi School Tribunal vide impugned Order dated 10.10.2018 was pleased to allow the aforesaid Execution Petition in favour of the respondent No. 1 with the following directions:-

" This Tribunal vide Order dated 18.08.2011 held that his termination was illegal and directed to reinstate him but the JD had not reinstated him and challenged the Order of the tribunal. Hon 'ble High Court upheld the Order of the Tribunal with regard to reinstatement of DH. Ultimately, the DH was reinstated by the JDs w.e.f 04.09.2013. In these circumstances DH is entitled for full wages w.e.f 18.08.2011 till 03.09.2013 alongwith all the consequential benefits.

10. For the reasons stated supra, DH is entitled for full wages/salary which shall be computed on the basis of periodical revision of salary in view of the fact that DH is entitled for all consequential benefits. JDs are directed to pay full wages /salary to the DH w.e.f 18.08.2011 till 03.09.2014. The same must be complied within 60 days from passing of this order."

20. The petitioner filed rejoinder to the counter affidavit filed by the respondent teacher on the following grounds:

"1. At the outset all the averments and submissions made by the Respondent no. 1 in its counter affidavit are false, baseless and frivolous. It is submitted that the judgments cited by the Respondent no.1 in the counter affidavit are not applicable in the present case. All the cited judgment in counter affidavit pertains to the labour law/Industrial law issue, whereas the present writ petition is clearly covered under Delhi School Education Act, 1973 that itself is separate statute exclusively for the purposes of deciding the disputes pertaining to school employees. Moreover, the Hon'ble Full Bench of this Hon'ble



Court in W.P.(c) no. 8058/2011 vide its order dated 14.05.2015 has settled the law qua back wages for school employees under Rule 121 of Delhi School Education Rule, 1973 (DSER). The Hon'ble Full Bench has categorically held that Rule 121 of DSER is fully applicable to unaided minority schools. The Hon'ble Bench had held that Delhi School Tribunal does not have powers to award back wages while setting aside the termination of the school employee; and it is the management committee of the school to consider and make specific order with regards to the salary and allowance to be paid to the school on employee's reinstatement subsequent to the setting aside of order terminating his services by DST. Hence, the submissions made by the Respondent No. 1 in his counter affidavit are liable to be rejected."

21. The written submissions as well as brief notes filed by the petitioner are on record. The respondent teacher has also filed written submission as well as additional written submissions which are on record.

SUBMISSIONS

(on behalf of the petitioner)

22. Mr. A.P.S Ahluwalia, learned senior counsel appearing on behalf of the petitioner submitted that the learned Tribunal incorrectly awarded back wages from 18th August, 2011 to 3rd September, 2013 as the learned Tribunal's reinstatement order dated 18th August, 2011 had been stayed by the Coordinate Bench of this Court vide order dated 15th November, 2011 passed in the writ petition bearing no. 8058/2011 therefore, there was no effective order of reinstatement during this period and, the respondent teacher is thus not entitled to back wages.



23. It is further submitted that the learned Tribunal exceeded its jurisdiction by not considering that the reinstatement order dated 18th August, 2011 was effectively subsumed by the subsequent orders of this Court dated 6th August, 2013 and 3rd September, 2013 which directed the reinstatement of the respondent rendering the learned Tribunal's order dated 18th August, 2011 non-operative.

24. It is contended that the Doctrine of Merger does not make a distinction between an order of reversal or modification or an order of confirmation passed by the Appellate Authority, instead it postulates that there can be more than one operative decree governing the same subject matter at a given point of time. The learned senior counsel for the petitioner has placed reliance on the judgment passed in ***Surinder Pal Soni Vs. Sohan Lal (D) through LRs and Ors***¹ in this regard.

25. It is further submitted that the learned Tribunal acted perversely and without jurisdiction by executing the order dated 18th August, 2011 which had already become *non-est* and did not exist after its merger in the order dated 6th August, 2013 which was passed and modified by this Court in W.P. (C) no. 8058/2011.

26. It is submitted that the learned Tribunal failed to recognize that Section 27 of the DSEAR is not applicable to the present case as it pertains specifically to 'any recognized private school.' The petitioner is an "unaided minority school", therefore, is outside the purview of a recognized private school. Moreover, there is distinction between the two terms by Section 2 of

¹ 2019(3) CLJ 616 (SC)



the DSEAR hence, the two terms i.e., “private school” as well as an “unaided minority school” has been distinctly defined.

27. It is further submitted that Section 27 of the DSEAR imposes penalties on the manager of a recognized private school for failing to comply with the Tribunal’s order without reasonable excuse and does not, however, empower the learned Tribunal to direct the management to pay wages or salary to an employee.

28. It is contended that when the operation of a subordinate Court's order has been stayed, it effectively means that there is no active order in operation. Consequently, the respondent teacher could not have been reinstated from 18th August, 2011 as he was permitted to rejoin *vide* order dated 6th August, 2013 and regarding the issue of back- wages, the petitioner school has the jurisdiction to decide on the same in terms of Rule 121 of DSEAR.

29. It is submitted that the Full Bench of this Court in W.P.(C) no. 8058/2011 vide its order dated 14th May, 2015 which has been upheld by the Hon’ble Supreme Court in ***Sunil Sikri & Anr. vs Guru Harkishan Public School & Ors.***², has settled the issue pertaining to the entitlement of the back wages for school employees under Rule 121 of DSEAR by holding that Rule 121 of DSEAR is fully applicable to the unaided minority schools, and therefore, the same is applicable upon the petitioner school.

30. It is also submitted that the Hon’ble Supreme Court further held that learned Tribunal does not have powers to award back wages *whilst* setting

² Civil Appeal No. 5562/2017 dated 28th July, 2022



aside the termination of the school employee. Moreover, it was clarified that it is the management committee of the school to consider and make specific orders with regard to the salary and allowance to be paid by the school on employee's reinstatement subsequent to the setting aside of termination order by the learned Tribunal.

31. It is further submitted that in view of the aforesaid judgment of the Hon'ble Supreme Court, the position of law *qua* the power of the Tribunal to award back wages has attained finality and it is only the school's management committee that is empowered to award back-wages. Moreover, in terms of the abovesaid judgment of the Hon'ble Supreme Court, the right to claim compensation under Rule 121 would only arise on the date of actual reinstatement and not before.

32. It is submitted on 6th August, 2013 in writ petition bearing W.P. (C) no. 8058/2011, this Court directed the petitioner to hold a disciplinary enquiry into the alleged incident of assault on the lady teacher/staffer and further directed the petitioner to allow the respondent teacher to work in the petitioner school as a teacher and also directed the management to hold an enquiry within the meaning of Rule 121 of DSEAR about the past salary and other allowances payable to him. Accordingly, the petitioner school conducted an enquiry under Rule 121 of DSEAR, wherein, the respondent teacher was held entitled to Rs. 4,21,000/-. The said amount has been paid to the respondent teacher by the petitioner school and hence, the respondent teacher has already been paid back-wages which was due to him.

33. It is submitted that the respondent teacher had been *mala fide* trying



to delay the enquiry proceedings by successively filing frivolous petitions such as W.P.(C) no. 19112014, 2696/2014 and 7744/2014 as well as LPA bearing no. 46/2015 before this Court and each one have been dismissed by this Court.

34. It is contended that it is a settled position of law that even if the order of dismissal is set aside by a Court or a Tribunal, the Management Committee or the employer is not bound to reinstate the employee and it may hold the further enquiry against the delinquent employee. Learned senior counsel for the petitioner has placed reliance on the judgment of *Abdul Kudos vs. Union of India*³ and *Chairman LIC of India & Ors. vs. A. Masilamani*⁴ in this regard. It is submitted that in accordance with the settled position of law in the instant petition also unless the enquiry is not properly conducted, the employer can conduct further enquiry before reinstating the employee.

35. Therefore, in light of the foregoing submissions, it is contended that the impugned order may be set aside, and the instant petition be allowed.

(on behalf of the respondent teacher)

36. *Per Contra*, Mr. Sanjeev Ralli, learned senior counsel appearing on behalf of the respondent teacher vehemently opposed the contentions averred by the petitioner and submitted to the effect that the impugned order does not suffer from illegality and merits no interference of this Court.

37. It is submitted that under Section 27 of DSEAR, the Tribunal has the

³ (2005)7 SCC 190

⁴ (2015) 1 SLT 299



power to pass orders in case of non-compliance of its orders. It is further submitted that the learned Tribunal, while passing the impugned order has rightly enforced the order dated 18th August, 2011 passed by it in appeal bearing no. 14/1994 .Learned senior counsel for the respondent teacher has placed reliance on the judgment of *Dav College Managing Committee v. Suriender Rana & Another*⁵ in this regard.

38. It is further submitted that Section 27 of DSEAR is applicable on unaided minority school as well, and there is no such provision in the Act which bars the applicability of the said Section on the unaided minority school.

39. It is submitted that the order dated 15th November, 2011, wherein, the Coordinate Bench of this Court granted interim stay in the writ petition bearing no. 8058/2011 came to an end with the passing of the order dated 6th August, 2013, wherein, the petitioner school undertook to reinstate the respondent teacher. Therefore, the respondent teacher was rightly granted full entitlement to all the benefits, including income, from the date of the order of his reinstatement.

40. It is contended that it is a well-settled position of law that if a decree/order remains stayed during the pendency of the Appeal filed against such decree/order but eventually the decree/order is confirmed/upheld or is accepted by the judgement debtor, then the beneficiary of the decree/order becomes entitled to all the financial and other benefits flowing from such decree/order even in respect of the period during which the said decree/order

⁵ W.P.(C) No.1828/2012 dated 14th February, 2013



remained stayed during the pendency of the proceedings in which the said decree/order was challenged. In this regard, the learned senior counsel for the respondent placed reliance on the judgment of *Fisheries Department, State of Uttar Pradesh vs. Charan Singh*⁶, *Kumari Sarita Thakur vs. Union of India and Anr.*⁷ and *New Delhi Municipal Council vs. Budh Ram*⁸ in this regard.

41. It is submitted that in the impugned order, the learned Tribunal has correctly passed the order holding that the respondent teacher is entitled for his salary dues for the subsequent period i.e. from 18th August, 2011 till 3rd September, 2013, since the same is not a part of the period contemplated/prescribed under Rule 121 of the DSEAR.

42. It is further submitted that the concept of back wages in the service jurisprudence means the wages payable to successful employee for the period starting from his termination and ending on the date on which the reinstatement order is passed by the concerned Court/Tribunal by setting aside the termination order. Hence, for salary payable for any subsequent period i.e. after the date of the order of reinstatement, Rule 121 of DSEAR has no application.

43. It is submitted that as per the order dated 18th September, 2011, the petitioner had undertook to reinstate the respondent teacher, passed by

⁶ Civil Appeal No. 2381 of 2007 decided on 26th March, 2015 (Supreme Court of India)

⁷ 1994 Supp (2) SCC 395

⁸ Civil W.P.(C) No. 11592 of 2004 decided on 14th December, 2009 (Delhi High Court)



learned Tribunal directing reinstatement of the respondent teacher was upheld and the plea of “no work no pay” becomes inapplicable. Moreover, the stay order will be vacated and the writ petition against the order of reinstatement passed by the learned Tribunal shall remain operative.

44. It is further submitted that in terms of the judgment passed in ***Shobha Ram Raturi v. Haryana Vidyut Prasaran Nigam Limited and others***⁹, the principle of "no work no pay" is not on applicable in the instant case on the ground that since there is no fault of the respondent teacher in not utilising services by the petitioner school, hence, the respondent teacher is entitled for his salary for the said period.

45. It is submitted that the order for reinstatement being stayed between 15th November, 2011 and 6th August, 2013 cannot be regarded as a reason for denying salary due to the respondent teacher during the said period. It is further submitted that from the date when the stay order came to an end, the respondent was duly entitled to his salary dues.

46. It is submitted that the petitioner has wrongly placed reliance on the judgement of the Hon'ble Supreme Court in the case of ***Sunil Sikri (Supra)*** as the aforesaid judgment does not adjudicate upon the issue pertaining to the salary dues payable for the period which is after the direction of reinstatement has already been issued.

47. It is submitted that vide adjudicating upon the impugned order, the learned Tribunal rightly rejected the contention of the petitioner school that the back wages of respondent teacher had already been decided under Rule

⁹ Civil Appeal No. 11325/2011 decided on 9th December, 2015



121 of DSEAR and Rs. 4,21,168/- as calculated by the petitioner school towards back wages had been paid. As the issue of back wages for the period prior to the order of reinstatement did not deal with the salary payable for the period commencing from the date of reinstatement ordered by the learned Tribunal till the date when respondent teacher was actually reinstated by the petitioner school.

48. In view of the forgoing paragraphs, it is submitted on behalf of the respondent that the petition may be dismissed.

ANALYSIS AND FINDINGS

49. Heard the learned senior counsel appearing for the parties at length and perused the record relied upon by them to substantiate their respective submissions. This Court has given thoughtful consideration to the submissions made by the parties as well as judgments relied upon by them.

50. It is the case of the petitioner school that the impugned order is bad in law for the reason that *firstly*, that Section 27 of the DSEAR, is not applicable on unaided minority school and it is applicable only on recognized private school. *Secondly*, the respondent teacher is not entitled for wages for the period during which there was a stay on the order dated 18th August, 2011 passed by the learned Tribunal directing reinstatement since, it did not have the requisite jurisdiction to deal with issues related to back-wages. It is only the petitioner school's management committee that can decide on such issues. Therefore, the learned Tribunal exceeded its jurisdiction and the impugned order is thus liable to be set aside.



51. In rival submissions, learned senior counsel for the respondent teacher refuted the submissions made on behalf of the petitioner on the grounds that *firstly* under Section 27 of DSEAR, the learned Tribunal has the jurisdiction to enforce the orders passed by it. Moreover, the aforesaid provision is applicable on the petitioner school since there is no provision in the Act which bars the applicability of the said provision upon the petitioner school. *Secondly*, mere stay on the order of reinstatement would not deprive the respondent teacher from claiming salary for the period during which there was a stay on the order of reinstatement and he is thus duly entitled for back-wages in case the stay order is vacated and the order for reinstatement is finally accepted. *Thirdly*, the learned Tribunal, vide adjudicating upon the impugned order, rightly rejected the contention of the petitioner school that the back wages of respondent teacher had already been decided under Rule 121 of DSEAR and Rs. 4,21,168/- as calculated by the petitioner school towards back wages had been paid as the same does not include the salary payable for the period commencing from the date of reinstatement ordered by the learned Tribunal till the date when respondent teacher was actually reinstated by the petitioner school.

52. It is pertinent to mention that the parties agree on details of employment of the respondent teacher. The facts related to his appointment and resignation is not in dispute. While there is disagreement between the parties on whether the resignation was obtained under duress, there is no dispute as to the resignation being tendered by the respondent after the incident of assault on 22nd January, 2004.



53. The two issues which falls for adjudication in the instant writ petition are as follows:

- “i. Whether the learned Tribunal has the jurisdiction to pass the impugned order under Section 27 of the DSEAR ?*
- ii. Whether the learned Tribunal had the jurisdiction to award full wages/ salary to the respondent teacher for the period 18th August, 2011 to 3rd September 2013 during which the operation of the order dated 18th August, 2011 was stayed by the Coordinate Bench of this Court vide order dated 6th August, 2013 in W.P. (C) 8058/2011 ”*

54. Now adverting to the issue no. 1 - *Whether the learned Tribunal has the jurisdiction to pass the impugned order under Section 27 of the DSEAR?*

55. Section 27 of the DSEAR pertains to the punishment inflicted on the management of the school, in case there is any omission or failure on the part of the said school to comply with the directions issued by the Tribunal.

The aforesaid provision is reproduced herein below:

- “27. Liability of manager to punishment.—If the manager of any recognised private school.—*
- (a) omits or fails, without any reasonable excuse, to carry out any orders made by the Tribunal, or*
 - (b) presents any student for any public examination without complying with the provisions of section 19, or*
 - (c) omits or fails to deliver any school property to the Administrator or any officer authorised by him under sub-section (2) of section 20, he shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.”*

56. The Coordinate Bench of this Court in the case of ***Riva Singh v.***



School Management of Ring Midways Senior Secondary Public School¹⁰

wherein aggrieved by the order passed against the representation made by the teacher employee under Rule 121 of DSEAR, the Court granted liberty to the teacher to file an application under Section 27 of DSEAR. The relevant extracts of the said judgment are reproduced herein below:

“3. To assail impugned order, learned counsel for petitioners draws attention of this Court to a statement (Annexure P-9) made by the Chairman of respondent-School on 15th September, 2017 to the effect that he is not authorized to operate the bank account of respondent-School as said bank account can be operated only by ex- Manager of respondent-School. So, it is submitted that rejection of petitioner's Representation under Section 121 of the DSEAR, 1973 by the Chairman of respondent -School is arbitrary and it needs to be struck down with a direction to respondent- School to expeditiously decide aforesaid Representation afresh.

4. At the outset, it was put to petitioners' counsel as to why petitioner cannot approach the Delhi School Tribunal to seek the relief as sought in this petition. Learned counsel for petitioners submits that petitioners have already filed application under Section 27 of the DSEAR, 1973 to claim the salary from the date of order of the Delhi School Tribunal till the date of reinstatement and the said application is still pending.

5. Upon hearing, I find that Section 25 of the DSEAR, 1973 bars the jurisdiction of civil courts to entertain such like petitions and the appropriate course to be adopted is to file a fresh application under Section 27 the DSEAR, 1973 before the Delhi School Tribunal to claim relief as claimed in these petitions and the Tribunal shall expeditiously consider it in accordance with the law.”

¹⁰ 2018 SCC OnLine Del 6644



57. Section 27 of DSEAR deals with the cases where there is non-compliance of the orders passed by the Delhi School Tribunal and it further postulates that the manager of the concerned school shall be liable for punishment of imprisonment or with fine or both for such non-compliance. As a Tribunal, it has the powers to enforce the orders passed by it as executing Court and not as Court of contempt.

58. The aforesaid position has been enunciated by the Coordinate Bench of this Court in the judgment of **DAV College Managing Committee (Supra)**, the relevant extracts of which are as under:

“4. A reference to the aforesaid Section 27 shows that in case of non-compliance of the orders which have been passed by the Delhi School Tribunal, the manager of the School will be liable for punishment of imprisonment or with fine or both.

5. I may note that the Supreme Court in the case of Union of India & Anr. vs. Paras Laminates, 1990 (4) SCC 453 has held that every Tribunal has within the bounds of its jurisdiction all those incidental and ancillary powers which are necessary to make fully effective the express grant of statutory powers. The exercise of such powers, which are incidental and ancillary, are necessary to make effective the exercise of powers which are granted.

6. Indubitably the Delhi School Tribunal as per Section 27 has powers to implement its orders and thus it has all incidental and ancillary powers to make orders under Section 27 effective. No doubt Tribunal cannot exercise powers of contempt, but, the subject proceedings are not in the nature of contempt proceedings but within the bounds of Section 27, and under which the Delhi School Tribunal can surely act.”



59. As per Section 2 of DSEAR, the “minority school” has been defined one which is managed by minority community and “private recognised school” refers to the school which is not owned by any Government Authority or its instrumentality. Section 27 though mentions recognised private school however, the same does not aim at excluding the minority school from its ambit.

60. This Court is of the view that the aforesaid provision is applicable to both the minority school and private recognised school. Accordingly, it is held that since there is no express bar on the applicability of Section 27 on the minority school, the said provision is applicable on the minority school.

61. It is further held that the learned Tribunal can enforce the orders passed by it regarding the minority school under Section 27 of DSEAR. The contention of the learned counsel for the petitioner that Section 27 of DSEAR is not applicable on minority school does not hold any water.

62. The issue (i) is accordingly decided against the petitioner.

63. Now adverting to issue no. (ii) - *Whether the learned Presiding Officer of the DST had the jurisdiction to award full wages/salary to the Respondent no .1 for the period 18th August, 2011 to 3rd September 2013 during which the operation of the order dated 18th August, 2011 was stayed by this Court and the order was in abeyance?*

64. Before delving into the issue as to whether the learned Tribunal had the authority to award back wages for the period from the date of order of the Delhi School Tribunal till the date of reinstatement, it is important to determine whether the respondent was in a position to be awarded back-



wages for the period when stay was placed on the order of reinstatement.

65. It is a well-established legal principle that when an order of reinstatement is passed in favour of an employee but is not immediately executed due to an appeal or stay, the employee is entitled to receive wages for the intervening period.

66. This principle is based on the notion that an employee who has been wrongfully terminated should not suffer financially due to delays in the legal process. The entitlement to wages begins from the date of the original order of reinstatement and continues until the actual reinstatement occurs following the decision of the appellate Courts. By receiving wages for the period of non-employment, the employee is placed in the same financial position as if the wrongful termination had not occurred. This principle is fundamental in maintaining the integrity of the legal system and ensuring that justice is served to the employees.

67. Furthermore, once the Appellate Court upholds the order of reinstatement, it re-establishes the employee's entitlement to wages for the entire period, including the time during which the order was stayed or under appeal. This ensures that the employee is fully compensated for the loss of wages suffered as a result of the wrongful termination. The principle also underscores the importance of timely and fair resolution of legal disputes, highlighting the need for efficiency in the judicial process to protect the rights of individuals in the employment context.

68. In the case of *D.N. Krishanappa vs. Deputy General Manager*,¹¹ the

¹¹ 2022 SCC OnLine SC 1709



Hon'ble Supreme Court adjudicated upon the right of the employee to seek compensation in case the order of reinstatement was stayed. The aforesaid judgment dealt with similar facts i.e., the employee was reinstated by the learned Tribunal on 18th May 2007 and the order of reinstatement was affirmed by the Hon'ble Supreme Court on 12th July, 2013. However, he was neither reinstated nor paid any compensation during the intervening period due to stay on the order granting reinstatement by the High Court. The Hon'ble Supreme Court, in its ruling, held that an employee who has been reinstated is entitled to wages for the intervening period in case the order of reinstatement is ultimately upheld. The relevant excerpts from the aforesaid judgment is reproduced hereunder:

“19. Having heard learned counsel appearing on behalf of the respective parties and considering the facts narrated hereinabove, it emerges that the order of reinstatement vide award dated 18.07.2007 has been confirmed up to the Division Bench of the High Court and even by this Court. What was modified by the High Court was the back wages from the date of termination till the date of award passed by the CGIT. It was the bank - employer who obtained the stay order against the order of reinstatement which ultimately came to be terminated on 12.07.2013 when the Division Bench of the High Court dismissed the writ appeals. As observed hereinabove, it was the employer - bank who obtained the stay against reinstatement and ultimately order of reinstatement attained the finality. Why should the employee be made suffer, when the bank obtained the stay of reinstatement and when the order of reinstatement subsequently came to be confirmed and attained the finality?

20. So far as the submissions on behalf of the bank that the interim order merged with final order dated 12.07.2013 and



therefore, the appellant is not entitled to claim the back wages for the period between 18.07.2007 and 12.07.2013 is concerned, at the outset, it is required to be noted that the interim order is always subject to the final order that may be passed finally while terminating the proceedings. Interim orders are always subject to the final decision. Therefore, merely because there was an interim order/stay of the order of reinstatement during the pendency of the proceedings, the employee - appellant cannot be denied the back wages/wages when ultimately the order of reinstatement came be confirmed by the Court.

21. Similarly, the submission on behalf of the bank applying the principle of merger has also no substance. In the present case as such the order of award of reinstatement has been confirmed by the Division Bench of the High Court. Therefore, the order of reinstatement will rely back to the original order passed by the Labour Court. Merely because the reinstatement order was under challenge and there was a stay of the order of reinstatement during the pendency of the proceedings before the High Court, it cannot be a ground to deny the wages to the employee when ultimately the order of reinstatement came to be confirmed and attained the finality.”

69. In another case of **Salim Ali Centre for Ornithology & Natural History v. Dr. Mathew K. Sebastian**¹², the learned Tribunal had issued an order of reinstatement on 23rd August, 2002. However, due to a stay on the order of reinstatement, the employee was not reinstated until 30th April, 2007. The Hon’ble Supreme Court, in its ruling, held that the employee was entitled to back wages for the period he remained unemployed as a result of

¹² 2022 SCC OnLine SC 451



the stay granted by the Appellate Court. The relevant excerpt is as under:

“8. Having heard Ms. Madhvi Divan, learned ASG and considering the facts and circumstances narrated hereinabove, we are of the firm view that the High Court has not committed any error in ordering back wages along with interest @ 9% per annum to the writ petitioner for the period from 23.08.2002 to 30.04.2007 during which time he was out of employment.

9. It is required to be noted that this is a case where the writ petitioner - respondent herein was claiming back wages on quashing and setting aside the order of termination. This is case where he remained out of employment, despite the order of reinstatement granted by the learned Single Judge, in view of the stay in the appeal preferred by the management - petitioners herein, which ultimately came to be dismissed in the year 2010. The back wages which are awarded to the writ petitioner are for the period the learned Single Judge in the earlier round of litigation ordered reinstatement. If there would not have been any stay order in the appeal preferred by the management, in that case, the writ petitioner would have been reinstated in service in the year 2002 itself, pursuant to the judgment and order passed by the learned Single Judge. What was denied by the learned Single Judge in the earlier round of litigation was the back wages from the date of termination (1996) till the order of reinstatement (2002). In the present case, the writ petitioner is claiming the back wages for the period subsequent to the order of reinstatement passed by the learned Single Judge and the writ petitioner remained out of employment even thereafter due to the order of stay passed in the appeal preferred by the management. Therefore, as such, on dismissal of the appeal of the management and the stay being vacated, the judgment and order passed by the learned Single Judge, setting aside the termination and ordering reinstatement came to be confirmed, as a natural consequence, the writ petitioner -



employee shall be entitled to back wages during the period he remained unemployed in view of the order of stay granted by the appellate court, which was at the instance of the management, subject to the management proving or producing any material on record that even during the said period the employee was gainfully employed.”

70. In the instant petition, as per the impugned order, the learned Tribunal directed the petitioner to pay full salary for the period from 18th August, 2011 to 3rd September, 2013. The learned Tribunal further held that the respondent was entitled to full wages along with consequential benefits w.e.f. 15th November, 2011, this amount is distinct from back wages. The impugned order takes into consideration that the amount due to the respondent is not in the category of back-wages prior to the period of reinstatement and therefore, outside the scope of Rule 121 of the DSEAR. The relevant excerpts of the impugned order are reproduced below:

“9. The wages w.e.f the date of order of this Tribunal, vide which the appeal filed by the Appellant was accepted and the JDs were directed to reinstate the Appellant with all the consequential benefits till the date of his actual reinstatement by the JDs does not fall in the category of back wages, therefore out of preview of Rule 121, hence this Tribunal has jurisdiction to decide the controversy whether the Appellant was entitled for the wages of said period or not. In the case in hand the plea of JDs is not that Appellant was employed somewhere else/ doing some other job, during the said period. This Tribunal vide order dated 18.08.2011 held that his termination was illegal and directed to reinstate him but the JD had not reinstated him and challenged the order of the Tribunal. Hon'ble High Court upheld the order of the Tribunal with regard to the reinstatement of DH. Ultimately, the DH was reinstated by the JDs w.e.f. 04.9.2013. In these circumstances,



DH is entitled for full wages w.e.f. 18.08.2011 till 03.09.2013 alongwith all the consequential benefits.”

71. Upon examination of the aforesaid extracts of the impugned order, it becomes apparent that the learned Tribunal does not dispute the authority of the school’s management committee to determine back wages prior to the order of the reinstatement by the learned Tribunal. in accordance with Rule 121 of DSEAR, It further held that the salary due from the date of the reinstatement order by the learned Tribunal until actual reinstatement do not fall under the category of ‘back-wages’, therefore, the same is out of the jurisdiction of the petitioner School.

72. Rule 121 of the DSEAR deals with payment of pay and allowances to an employee upon his reinstatement. The relevant portion of the said provision is as follows:

“121. Payment of pay and allowances on reinstatement

(1) When an employee who has been dismissed, removed or compulsorily retired from service is reinstated as a result of appeal or would have been so reinstated but for his retirement on superannuation while under suspension preceding the dismissal, removal or compulsory retirement, as the case may be, the managing committee shall consider and make a specified order: -

- (a) with regard to the salary and allowances to be paid to the employee for the period of his absence from duty, including the period of suspension preceding his dismissal, removal or compulsory retirement, as the case may be; and*
- (b) whether or not the said period shall be treated as the period spent on duty.*



(2) Where the managing committee is of opinion that the employee who had been dismissed, removed or compulsorily retired from service had been fully exonerated, the employee shall be paid the full salary and allowances to which he would have been entitled had he not been dismissed, removed or compulsorily retired from service or suspended prior to such dismissal, or compulsory retirement from service, as the case may be:

Provided that where the managing committee is of opinion that the termination of the proceedings instituted against the employee had been delayed due to reasons directly attributable to the employee, it may, after giving a reasonable opportunity to the employee to make representations and after considering the representation, if any, made by the employee, direct, for reasons to be recorded by it in writing, that the employee shall be paid for the period of such delay only such proportion of the salary and allowances as it may determine.

(3) The payment of allowances shall be subject to all other conditions under which Midi allowances are admissible and the proportion of the full salary and allowances determined under the proviso to sub-rule (2) shall not be less than the subsistence allowance and other admissible allowances.”

73. Upon perusal of the aforementioned provision, it is clear that the power to determine the salary of an employee who had been dismissed, removed or was compulsorily retired from services is reinstated due to appeal vests with the management committee of the School for the time period such an employee was absent from duty and the same includes the period of suspension prior to the said employee's dismissal, removal or compulsory retirement.

74. As per the Rule 121 sub-clause 2 of DSEAR, the management of the school management has the jurisdiction to determine on the issue of whether



the period of absence from the service during dismissal, suspension, etc., shall be treated as the period spent on duty. It further envisages that the management of the school shall pay the salary as well as emoluments as the employee of the school is entitled to. The management of the School, in this regard is also given liberty to conduct proceedings to ascertain the amount due to the employee of the School.

75. In the present case, the power to award back-wages for the period from the date when the respondent's service was terminated in the year 1994 till the year 2011 vests with the petitioner school. However, the power to determine the salary due to the respondent teacher after his reinstatement would not fall in the hands of the management of the petitioner school since the same is outside the power and jurisdiction conferred under Rule 121 of DSEAR.

76. It is pertinent to note that pursuant to the order of the reinstatement by the learned Tribunal, the petitioner school was bound to reinstate the respondent and pay the respondent the salary to which he is duly entitled to. However, due to a stay in operation, the intervening period i.e., 18th August, 2011 till 3rd September, 2013, when the respondent was not re-instated, he was not paid salary.

77. As per Rule 121 of DSEAR, the respondent school has the jurisdiction to decide the issue pertaining to the salary and allowances to be paid to an employee for the period of his absence from duty, including the period of suspension preceding his dismissal. Hence, the intervening period does not fall within the ambit of Rule 121 of DSEAR since, as per the said rule, the



petitioner school had the power to award salary during the period of 1994 till 2011, before the respondent school was reinstated.

78. This Court is the view of that the decision of the learned Tribunal to exclude the period from the date of the reinstatement order until actual reinstatement from the definition of 'back wages' and the jurisdiction of the school's management committee under Rule 121 is correct and does not merit any intervention of this Court.

79. The learned Tribunal further correctly held that Rule 121 of the DSEAR, which governs the determination of compensation for reinstated employees, is only applicable after the reinstatement becomes final and not before. Thus, it is imperative to note that the intervening period, i.e., the period where an appeal is pending against the order of reinstatement does not fall within the scope of Rule 121 of DSEAR.

80. Now this Court will advert to examine the judgment on which the learned counsel for the petitioner has placed reliance upon i.e., *Sunil Sikri (Supra)*, wherein the Hon'ble Supreme Court held that the Tribunal has the jurisdiction to adjudicate on the issue of wages payable to a reinstated employee.

81. In the aforesaid judgment, the Hon'ble Supreme Court emphasized that the authority to adjudicate upon the issue of wages payable to a reinstated employee squarely rests with the school's managing committee, as stipulated under Rule 121 of DSEAR. It was categorically held that Rule 121 of DSEAR is applicable only when the reinstatement order attains finality and does not come into effect during the pendency of an appeal against the



order of reinstatement. The relevant paragraphs are reproduced hereunder:

“29. A perusal of Rule 121 would reveal that the power coupled with the duty will come into play only after the order of the Tribunal directing reinstatement is accepted by the Management. This we say for the reason that Rule 121 speaks about the employee who had been dismissed, removed or compulsory retired being reinstated by the Management. Of course, Rule 121 would also apply if but for his retirement or superannuation, the employee would have been reinstated. Both these consequences will follow only if the order of reinstatement of the Tribunal becomes final. In other words, if the order of the Tribunal is under challenge and the stage has not arrived where the Managing Committee actually reinstates or would have reinstated but for his retirement, Rule 121 would not apply. We are not diluting for a moment the duty to implement the order in the absence of an order from the competent court permitting it being suspended.

31. Now, let us consider the matter from another perspective. Section 8(3) as also Rule 120(3) provide for a right of appeal which right must be understood in the light of the law declared by this Court as expanded to include all cases of termination except termination brought about by the efflux of time. [See Shashi Gaur judgment]. The appeal is not filed against the order of a Trial Court as such. No doubt, the power available to the civil court under the Code of Civil Procedure are showered upon the Tribunal. The Tribunal is not clothed with specific powers to grant relief of payment of the allowances. The Tribunal is also not empowered to deal with the question as to whether the employee must be treated as on duty for the period when the employee remains absent on account of both the absence, whether or not, on account of suspension before the termination and compelled absence after the penalty is imposed. The appellant relies on the judgment of Deepali Gundu (supra). One of the questions, which would fall for consideration, is the question as to whether the employee was



gainfully employed elsewhere during the period of compelled absence. The Tribunal is called upon to decide the legality and correctness of the penalty. It is certainly entitled to act as an appellate body and come to the conclusion that there was no basis either for reasons which are technical or on the basis that no case is made out even on merits to impose the penalty against the employee. Should the Tribunal set aside the penalty covered by Rule 121, it is always open to the management to take recourse to remedies open to it. The order of re-instatement does not become final. The employee remains absent undoubtedly on the basis of the order obtained by the Management in the superior court. What is relevant is the actual re-instatement under Rule 121 which would set the stage for holding the inquiry thereunder. The inquiry, it must be noticed is not merely limited to the question of pay and allowances. The management is given the powers coupled with the duty to hold an inquiry and to pass an order as to whether the employee must be found to be on duty or not and for what period during his absence. The Lawgiver has conferred a power with the management. The use of the words “in its opinion” indicates that the Managing Committee must apply its mind and consider all aspects and take a view. This must, undoubtedly, be done after putting the employee on notice. The employee must be afforded an opportunity. The employee would be in a position to point out that he was not employed elsewhere. He would also be able to establish that he was fully exonerated. We have noticed that the order of the appellate authority in an appeal directing reinstatement may not be final as it can be impugned in the higher forum. We would, therefore, find that it may not be appropriate or apposite to find that Rule 121 is in any manner ultra vires Sections 8 and 11 of the Act. Properly appreciated and implemented, the provisions of the parent Act and the subordinate legislation can be harmonized.

32. *There is no express power with the Tribunal of the kind which is present in the Maharashtra Act which fell to be*



decided in Deepali Gundu (supra). There is express power with the Managing Committee to be exercised at a particular point of time which arrives when re-instatement is effected or re-instatement would have followed but for retirement of the employee. Rule 121, in our view, while being an enabling provision must also be interpreted as a case of power coupled with a duty. The power must be exercised promptly and without fail by the Managing Committee immediately following the re-instatement of the employee which would be the result of any voluntary order of reinstatement or re-instatement, which is inevitable following the binding orders of the court. The management is duty bound to conduct an inquiry to pass the orders contemplated under Rule 121(1)(a) and (b). The presence of the words “in its opinion” do indicate a certain amount of authority with the Managing Committee. This however, is not to be confused with any right to act with arbitrariness or caprice. In other words, it is duty bound to look into all the inputs including the orders which are finally passed which led to the re-instatement of the employee. It is duty bound to act fairly. The question about the employee being gainfully employed and the amount received till the stage of reinstatement, is aptly gone into under Rule 121. After putting the employee on notice and giving him an opportunity, the Managing Committee must provide for the matters which are provided therein, namely Rule 121.

34. *The power coupled with duty takes life not only upon there being an order of reinstatement in an appeal but upon the Managing Committee proceeding to implement the direction to reinstate, issued by the Tribunal. If the power is to be exercised by the Tribunal apart from the fact that there would be situations, such as, contemplated in Rule 115 of the Rules, which would render both the Rule and right given to the Management under the said Rule, meaningless and futile, it would involve the Tribunal being called upon to exercise the*



duty and the power, which is best exercised by the Managing Committee.”

82. Upon perusal of the aforementioned extracts, it is evident that any period preceding the actual reinstatement of an employee is encompassed by Rule 121 of DSEAR. The aforesaid judgment does not deal with the situation such as in the instant petition regarding the salary of the respondent teacher in the intervening period i.e., from the date of the order of the reinstatement till the date of actual reinstatement of the employee. Therefore, the aforesaid judgment is not applicable to the facts of the instant petition.

83. Consequently, the learned Tribunal’s rationale that Rule 121 of DSEAR does not extend to the period from the date of the original order of reinstatement until actual reinstatement is correct.

84. In *Sunil Sikri (Supra)*, the Hon’ble Supreme Court held that the employees would need to approach the management committee for the period preceding the order of reinstatement. However, for the period following the order of reinstatement until actual reinstatement, employees would have to approach the Tribunal.

85. In light of the preceding paragraphs, this Court is of the view that the learned Tribunal has the jurisdiction to award the salary for the intervening period. Hence, learned Tribunal did not act illegally in awarding the wages/salary for the period dated 18th August, 2011 till 3rd September, 2013.

86. Accordingly, issue no. ii is decided in favour of the respondent teacher.



CONCLUSION

87. A writ is issued for correcting errors of jurisdiction committed by inferior Courts or Tribunals and such errors would mean where orders are passed by inferior Courts or Tribunals without jurisdiction, or in excess of it, or as a result of failure to exercise jurisdiction. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or improperly, as for instance, it decides a question without giving an opportunity to be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to the principles of natural justice.

88. Based on the above evaluation of judicial *dicta*, it is evident that the learned Tribunal did not err in its interpretation of Rule 121 and its jurisdiction in determining wages payable to the respondent. The Tribunal's decision to exclude the period from the date of the original order of reinstatement until actual reinstatement from the purview of Rule 121 is as per established legal principles.

89. It is held that the petitioner is duly entitled for the salary for the intervening period i.e., from the date when the learned Tribunal directed respondent's reinstatement till the date of the actual reinstatement of the respondent, i.e., 18th August, 2011 to 3rd September, 2013.

90. Having considered the above discussions, this Court is of the view that the learned Tribunal has passed the impugned order after taking into consideration the entire facts and circumstances as well as documentary



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evidence along with the oral testimonies of the witnesses.

91. It is held that the impugned order is well reasoned and has been passed in consonance to the settled legal principles and the petitioner has failed to prove otherwise. In view of the said terms, this Court does not find any perversity in the impugned order which merits the interference of the extraordinary writ jurisdiction of this Court.

92. In view of the foregoing discussions of facts as well as law, the impugned order dated 10th October, 2018 passed by the learned Presiding Officer, Delhi School Tribunal, Delhi in Execution Petition No. 66/2011 in Appeal No. 14/1994 is upheld.

93. Accordingly, the instant petition stands dismissed, along with the pending applications, if any.

94. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

JULY 9, 2024
dy/db/ryp

Signature Not Verified

Digitally Signed By: PRAVEEN
KUMAR BABBAR
Signing Date: 15-07-2024
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