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

+ W.P.(C) 11734/2015

LEENA HOPPER

.....Petitioner

Through: Ms. Saloni Mahajan, Advocate.

versus

ST ANTHONY'S GIRLS PRIMARY SCHOOL
AND ORS

.....Respondents

Through: Mr. Sanyam Khetarpal, Ms. Prakriti
Anand, Mr. Nitai Agarwal and Ms. Lisa Sankrit,
Advocates for R1.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

16.08.2024

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1. This writ petition has been preferred on behalf of the Petitioner under Article 226 of the Constitution of India challenging an order dated 29.10.2015 passed by the Delhi School Tribunal (hereinafter referred to as 'DST').
2. Facts to the extent necessary are that the Petitioner was appointed by Respondent No.1/St. Anthony's Girls Primary School (hereinafter referred to as 'School') in 2010 on probation for a period of one year *albeit* appointment letter was issued on 13.01.2011, according to the Petitioner. Her probation was extended from 14.01.2012 to 13.01.2013 and thereafter for another one year upto 13.01.2014.
3. On 03.10.2013, School sought a clarification from the Petitioner whether she had acquired the B.Ed. degree from Kurukshetra University after appearing in a regular course or through correspondence. Petitioner



responded on 04.10.2013 clarifying that she had completed her B.Ed. course during the session 2009-10 from Sriram College of Education, Kaithal which was affiliated to Kurukshetra University and hence, she was fully eligible for appointment as Assistant Teacher. Services of the Petitioner were terminated w.e.f. 17.10.2013 on the ground that she had acquired Shiksha Visharad from Hindi Sahitya Sammelan, Allahabad, an institution not recognized by NCTE and though the appointment of the Petitioner was initially made on 14.01.2011 under the presumption that the School was unrecognized but later on 07.08.2013, this Court and the Directorate of Education (DoE) held that the School was recognized and therefore, the appointment of the Petitioner was *void-ab-initio*.

4. Petitioner avers that on receipt of the termination order she was in a state of turmoil and could not challenge the order immediately. Moreover, she shifted from Delhi where she was living with her parents to Ambala where her husband was working and was under treatment for her medical ailments and on account of all these factors cumulatively, she was unable to take recourse to legal remedies against her termination. After the Petitioner recovered, a legal notice was sent by her counsel on 17.10.2014 to the School against the illegal termination and demanding reinstatement with all consequential benefits. School responded on 11.11.2014 justifying the termination on false allegations that the appointment had been obtained by fraud and cheating.

5. It is averred that left with no other alternative, Petitioner approached DST and filed an appeal under Section 8(3) of Delhi School Education Act and Rules, 1973 ('DSEAR') on 07.05.2015 with a delay of 574 days. Medical documents reflecting that Petitioner was under treatment during the



intervening period were also filed before the DST along with the appeal. On 06.09.2015, School filed its reply primarily opposing the appeal on ground of delay. By the impugned order dated 29.10.2015, DST erroneously dismissed the appeal as barred by limitation overlooking that Petitioner had made out a case for condonation of delay, which was for reasons beyond her control and was a result of several factors and largely due to her illness and moving out of Delhi to Ambala.

6. Learned counsel for the Petitioner assails the order of the DST on the ground that Petitioner has a substantive right to challenge the termination order which is wholly illegal and contrary to records, since Petitioner was eligible and qualified for the post of Assistant Teacher and therefore, even if there was some delay in filing the appeal, DST ought to have kept in mind the principle that delay should not defeat equity and justice. While it is true that there is a limitation period of 3 months for filing an appeal before the DST under Section 8(3) of DSEAR but DST has the power to condone the delay if sufficient cause is made out and Petitioner had shown sufficient cause for filing the appeal after a delay of 574 days. It is urged that Petitioner was admitted in Aneja Hospital and Nursing Home, Ambala Cant. on 29.08.2013 and discharged on 02.09.2013 and was advised rest from 29.08.2013 to 17.09.2013. Petitioner was under treatment again from 26.05.2014 to 07.11.2014 and 09.01.2015 to 31.03.2015 and since she shifted from Delhi to Ambala, Petitioner was not in a position to come to Delhi, engage a lawyer and file the appeal within the period of limitation or soon thereafter. Learned counsel draws support from the medical documents filed before DST and pleads that the delay be condoned and direction be issued to DST to entertain the appeal on merit.



7. Learned counsel appearing on behalf of the School argues that DST has rightly dismissed the appeal on ground of delay. As rightly noted by DST, the medical documents showing that Petitioner underwent surgery and follow up treatment during 29.08.2013 to 17.09.2013 were of no consequence as termination was on 17.10.2013, post the said period. Medical documents pertaining to the period after 17.10.2013 do not indicate that Petitioner was hospitalized or advised bed rest/rest and only contain the names of medicines prescribed and that too for very short periods intermittently. Petitioner was unable to show any just cause or plausible reason that prevented her from filing the appeal for nearly two years. Admittedly, Petitioner had engaged a lawyer in October, 2014, who sent a legal notice on 17.10.2014 on her behalf, but even thereafter she waited till 07.05.2015 to file the Appeal, with no justified explanation for this delay. It is argued that having slept over the matter for nearly two years, Petitioner is not entitled to seek condonation of the inordinate and unexplained delay, especially in light of the fact that she had sought appointment by fraud and cheating, by producing documents pertaining to educational qualification from an unrecognized institute. In the absence of showing sufficient cause for condonation of delay, DST rightly dismissed the appeal and in this context, reliance is placed on the judgment of the Supreme Court in ***Basawaraj and Others v. Special Land Acquisition Officer, (2013) 14 SCC 81.***

8. I have heard learned counsel for the Petitioner and learned counsel for the School.

9. Indisputably, learned DST has dismissed the appeal bearing No.33/2015 on the ground that it was barred by limitation and has not



touched upon the merits of the case and therefore, this judgment is limited to adjudication on the issue of condonation of delay in filing the appeal before the DST. It is also an undisputed fact that aggrieved by the termination order dated 17.10.2013, Petitioner filed the appeal only on 07.05.2015 i.e. after a delay of 574 days. Petitioner contends that sufficient cause was shown for condonation of delay by bringing forth several factors, which prevented the Petitioner from approaching the DST within the limitation period and thereafter within a reasonable time, i.e. mental trauma due to termination; health issues for she was under treatment; and shifting from Delhi to Ambala to live with her husband. School has vehemently opposed condonation of delay on the ground that no cause, leave alone sufficient cause has been shown by the Petitioner for condoning the inordinate delay of nearly 02 years. Medical documents show that Petitioner underwent surgery and follow up treatment prior to the date of termination and the subsequent medical certificates are merely in the nature of prescription slips. Even after engaging a lawyer and sending a legal notice on 17.10.2014, Petitioner waited till May, 2015 to approach DST and this delay is also unexplained.

10. Section 8(3) of DSEAR prescribes the period of 3 months to challenge the order of termination before DST. Undoubtedly, DST is bestowed with the power to condone the delay but there is no gainsaying that delay can be condoned only if an applicant shows 'sufficient cause' for not filing the appeal within the limitation period or at least within a reasonable period thereafter. There is no cavil that Supreme Court has from time to time emphasized that a liberal approach must be adopted while considering applications seeking condonation of delay when a litigant



approaches the Court of law. Equally undisputed, however, is the legal proposition that an inordinate and unexplained delay in a given case should not be likely brushed aside and as observed by the Supreme Court in ***Chennai Metropolitan Water Supply and Sewerage Board and Others v. T.T. Murali Babu, (2014) 4 SCC 108***, Court must weigh the explanation offered and the acceptability of the same and while a Constitutional Court has a duty to protect the rights of the citizens, it must simultaneously keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the Court at his own leisure or pleasure, the Court would be under legal obligation to scrutinize whether the *lis* at a belated stage should be entertained or not. Delay defeats equity and law helps the vigilant and not the indolent, are well-accepted and recognized principles forthcoming from wealth of judicial precedents. In ***Mool Chandra v. Union of India and Another, 2024 SCC OnLine SC 1878***, the Supreme Court once again affirmed that if negligence can be attributed to a litigant, Court would be justified in rejecting the plea for condonation, particularly, when sufficient cause for the delay is not made out. In this context, I may also allude to the judgment of the Supreme Court in ***Municipal Council, Ahmednagar and Another v. Shah Hyder Beig and Others, (2000) 2 SCC 48***.

11. Coming to the present case and the order of the DST, this Court finds that three-fold grounds were raised by the Petitioner for condonation of delay: (a) initial trauma on account of termination of her services; (b) health issues; and (c) shifting from Delhi to Ambala. During the course of hearing, counsel for the Petitioner has primarily stressed on the health issues and the medical documents placed before DST. After examining the application for



condonation of delay, which I may note painfully, is extremely sketchy and does not set out sufficient cause for delay, DST notes that Petitioner was admitted in Aneja Hospital and Nursing Home at Ambala on 29.08.2013 and was discharged on 02.09.2013 and the second medical certificate dated 29.08.2013 reflects that she was advised rest from 29.08.2013 to 17.09.2013, but this entire period is prior to the termination order dated 17.10.2013 and does not aid the Petitioner. This, in my view, is a correct finding inasmuch as a plea for condonation of delay in challenging a termination order dated 17.10.2013 cannot be based on events prior to the date of the termination order and more so, when there is no medical document for the period immediately after the said order. The next set of medical documents, on a bare perusal, pertain to a period between 26.05.2014 to 07.11.2014 and 09.01.2015 to 31.03.2015 and are in the nature of prescription slips and there is no indication of any hospitalization in this period or bedrest/rest. There is no explanation or even a remote suggestion as to what the Petitioner did between 17.10.2013 to 26.05.2014, assuming for the sake of argument that she was ill from 26.05.2014 to 07.11.2014 and likewise for the period between 08.11.2014 to 08.01.2015, going by the medical record. DST has rightly held that even after the Petitioner engaged a counsel and sent a legal notice on 17.10.2014, she took no steps to file the appeal between 17.10.2014 and 07.05.2015 and there is no explanation for this delay. Finding of the DST that Petitioner was unable to make out a 'sufficient cause' for condonation of delay is based on material placed on record by the Petitioner herself and warrants no interference by this Court.



12. There is no merit in the writ petition and the same is accordingly dismissed.

JYOTI SINGH, J

AUGUST 16, 2024/jg/shivam