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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Decided on 18.03.2025*+ **W.P.(C) 2937/2022 & CM APPL. 8504/2022**

DR. SHAMIM

.....Petitioner

Through: Mr. Rohit Gandhi, Mr. Navdeep Jain, Mr. Anmol Singhal, Mr. Hargun Singh Kalra, Ms. Akshita Nigam, Mr. Varun Trivedi, Advocates.

versus

DIRECTORATE OF EDUCATION & ORS.Respondent

Through: Ms. Avnish Ahlawat, SC with Mr. N.K. Singh, Ms. Laavanya Kaushik, Ms. Aliza Alam, Advocates for DoE.
Mr. Sagar Saxena, Mr. Parmeet Singh, Mr. Sarthak Pandey, Advocates for R-2 and 3.+ **CONT.CAS(C) 550/2024**

DR SHAMIM

.....Petitioner

Through: Mr. Rohit Gandhi, Mr. Navdeep Jain, Mr. Anmol Singhal, Mr. Hargun Singh Kalra, Ms. Akshita Nigam, Mr. Varun Trivedi, Advocates.

versus

RASHTRIYA VIRJA NAND ANDH KANYA SENIOR
SECONDARY SCHOOL

.....Respondent

Through: Ms. Avnish Ahlawat, SC with Mr. N.K. Singh, Ms. Laavanya Kaushik, Ms. Aliza Alam,



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Advocates for DoE.

Mr. Sagar Saxena, Mr. Parmeet Singh, Mr. Sarthak Pandey,
Advocates for R-2 and 3.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

PRATEEK JALAN, J.(ORAL)

W.P.(C) 2937/2022 & CM APPL. 8504/2022

1. The petitioner was employed as a PGT (Music) in the respondent No. 3 – Rashtriya Virjanand Andh Kanya Senior Secondary School, established by the respondent No. 2 – Rashtriya Virjanand Andh Kanya Vidyalaya Society [hereinafter collectively referred as, “the School”]. She has filed this petition under Article 226 of the Constitution, against a suspension order dated 02.12.2021 issued against her, commencement of disciplinary proceedings by an order dated 25.09.2021, chargesheet dated 12.10.2021, and also sought a direction upon the respondents to release her salary from November, 2020. The petitioner was in service at the time the writ petition was filed, but attained the age of superannuation on 31.07.2023.

2. I have heard learned counsel for the parties.

3. The petitioner joined the service of the School as PGT (Orchestra) on 24.02.1998.

4. The School purported to suspend the petitioner on two occasions: by orders dated 11.11.2020 and 04.09.2021.

5. The first order of suspension, made on 11.11.2020, was for a period of six months. By an order dated 10.12.2020, the Directorate of



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Education [“DoE”] first ordered that the suspension was not lawful and must be withdrawn. By its order dated 13.01.2021, DoE also directed that the petitioner must be allowed to join her duties. Subsequently, however, the matter was reviewed by DoE at the request of the School, and by a communication dated 19.03.2021, approval was accorded to the suspension with effect from 11.11.2020. The petitioner’s suspension under the order dated 11.11.2020, thus came to an end on 10.05.2021. Admittedly, there was no review of the suspension after the period of six months, as a reason of which the DoE, by order dated 17.08.2021, revoked the suspension with immediate effect.

6. It is the petitioner’s case that, pursuant to the revocation of her suspension, she attempted to join the services of the School on 18.08.2021. She has placed on record a “Joining Report” dated 18.08.2021 to this effect. The School, however, by letter dated 21.08.2021, informed her that the matter relating to revocation of suspension would be put up in the School Managing Committee [“SMC”] and the decision will be taken accordingly. It was further contended that the petitioner had been coming to the School without permission, though she was prohibited “*on the basis of your acts which are criminal in nature*”. The petitioner was therefore directed to leave the premises and was informed that she would be intimated if any future decision was taken relating to her rejoining or revocation of the suspension. It is the petitioner’s case that she was thus prohibited from taking the benefit of the revocation order dated 17.08.2021.

7. It may be mentioned that, in the counter affidavit dated 07.01.2022, filed by the School, it has been contended that the petitioner “*rejoined her*



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duties” on 17.08.2021 and was present on 18.08.2021, 19.08.2021 and 20.08.2021. In the light of the School’s communication dated 21.08.2021, which has not been denied, however, this plea is untenable. The School clearly objected to her effort to rejoin services, and had not permitted her to do so.

8. Soon thereafter, on 04.09.2021, the School in a meeting of the SMC, considered the matter, and it was decided that the petitioner’s joining on 18.08.2021 would be communicated to the DoE in compliance with its direction. In view of the aforesaid communication dated 21.08.2021 addressed by the School to the petitioner, this decision also appears to be a belated attempt to feign compliance with the DoE’s order dated 17.08.2021, which is at variance with the record.

9. In any event, it was further resolved on the basis of allegations with regard to petitioner’s subsequent conduct on 21.08.2021, that her presence in the School was inappropriate, and it was therefore decided to suspend her again. A communication dated 04.09.2021 to this effect was sent to the petitioner. However, the School’s request for DoE’s approval was rejected by a communication dated 01.12.2021, and the School was directed to reinstate the petitioner.

10. A meeting of the SMC was apparently held on the same day, i.e. 01.12.2021. The minutes of the said meeting record that by a majority, the petitioner’s suspension was purportedly extended for a period of three months. DoE nominees and Advisory Board Members had informed the SMC that, according to their knowledge, the petitioner’s suspension had been revoked and they therefore, were not in favour of the extending the suspension. However, the decision was nonetheless taken by majority.



11. In the meanwhile, the School had issued a Memorandum dated 12.10.2021 to the petitioner in respect of disciplinary proceedings, on various charges. At the SMC meeting held on 01.12.2021, it was also decided to pursue disciplinary proceedings against the petitioner in terms of the said chargesheet. During the pendency of this writ petition, the Disciplinary Action Committee [“DAC”] of the School submitted reports dated 08.07.2022 and 29.07.2022, and the SMC passed a resolution dated 02.08.2022, with regard to the disciplinary proceedings.

12. The report of the DAC dated 08.07.2022 has been placed on record, which found that eight of the eleven charges were proved against the petitioner, and therefore proposed to impose a major penalty on her under the Delhi School Education Act and Rules, 1973 [“DSEAR”]. It thereafter directed issuance of a further notice to the petitioner, giving her time to reply by 23.07.2022.

13. The DAC had a further meeting on 29.07.2022, in which it was noted that no response had been received from the petitioner. The recommendations dated 08.07.2022 were therefore confirmed.

14. The SMC passed a resolution dated 02.08.2022, accepting the report of the DAC dated 08.07.2022.

15. Apparently, pursuant to these decisions, the School Manager wrote a letter dated 02.08.2022 to the DoE, stating that a decision had been taken by the SMC to remove the petitioner from service under Rule 117(b)(iii) of the DSEAR. This was also communicated to the petitioner on the same day. The School sought approval of the DoE for this decision.

16. The DoE, however, by a communication dated 20.09.2022, found



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that the requirement of prior approval for a major penalty, under Rule 120 of the DSEAR, had not been adhered to, and therefore directed the School to withdraw the communication dated 02.08.2022 whereby the SMC had informed the petitioner of its decision to terminate her services. The School was directed to inform the DoE of compliance within three days. It is the admitted position that the School has not acted in terms of the order dated 20.09.2022.

17. It may also be noted that the DAC's recommendations dated 08.07.2022 proposed imposition of a major penalty, but did not specify what that penalty should be. The further meeting dated 29.07.2022 and the SMC meeting dated 02.08.2022 only reiterated this position. Rule 117(b) of the DSEAR provides for several penalties in the category of "Major penalty", including removal from service, dismissal from service and reduction in rank etc. There does not appear to be any specific decision of the DAC or SMC with regard to the particular penalty that must be imposed upon the petitioner. To this extent, the School's position that the petitioner was "removed" from service, is not borne out by the record. The Manager could not have taken such a decision on her own, *de hors* the resolutions of the DAC and the SMC.

18. Learned counsel for the School drew my attention to the fact that the DoE took further action against the School with regard to grant-in-aid and appointment of an administrator, which has been challenged by the School in W.P.(C) 16232/2022. This Court has stayed two orders of the Delhi Minorities Commission dated 12.07.2021 and 22.09.2022 and an order of the DoE dated 17.11.2022, by which an administrator was appointed. However, it is undisputed that the order dated 20.09.2022 of



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the DoE has not been stayed.

19. In this backdrop, the position which emerges is as follows:

- (a) The petitioner's original suspension dated 11.11.2020 was for a period of six months, i.e. until 10.05.2021. It was approved by the DoE *vide* communication dated 19.03.2021.
- (b) The said suspension order dated 11.11.2020 was never reviewed or extended, and was formally revoked by the DoE by order dated 17.08.2021.
- (c) The petitioner was not permitted to join services pursuant to the said order.
- (d) The petitioner was suspended for the second time on 04.09.2021, but DoE rejected the School's request for approval of suspension by its order dated 01.12.2021.
- (e) The order dated 02.12.2021, which is challenged in this petition, was an attempt to extend the suspension order dated 04.09.2021. As the original suspension itself has not been approved, the said communication has no legal effect.
- (f) The disciplinary proceedings against the petitioner have culminated in a report of the DAC dated 29.07.2022, by which a decision was taken to impose a major penalty upon the petitioner.
- (g) The SMC considered the matter on 02.08.2022 and accepted the findings of the DAC dated 08.07.2022, in which the nature of the penalty to be imposed upon the petitioner was not specified. The School's communication dated 02.08.2022 stating that SMC had decided to remove the petitioner from service is, therefore, not in terms of the minutes of the SMC, which the School itself has



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placed on record.

(h) In any event, the order of removal has not been approved by the DoE. DoE's direction to withdraw the order has, however, not been complied with by the School.

20. In the meanwhile, as the petitioner has attained the age of superannuation, the issues regarding her suspension are no longer germane.

21. The only question which requires consideration is whether the petitioner is entitled to the arrears of salary and retiral benefits for the period until her date of superannuation, i.e. 31.07.2023. The School claims to have released her salary until the date of her purported termination, i.e. 02.08.2022. The computation thereof is disputed by the petitioner, but this need not detain us as the computation, in any event, requires to be revisited in the light of the findings above. As the petitioner's purported removal is not approved by the DoE, and also because no such specific punishment had been imposed by the SMC, the petitioner is to be treated as in service until the date of her superannuation, i.e. 31.07.2023. The School is directed to pay her arrears of salary and other benefits as well as retiral benefits, on this basis.

22. The School is directed to comply with these directions within four weeks from today, failing which the dues will carry interest @ 9% per annum.

23. Learned counsel for the School submits that the school is an aided school, and will be entitled to grant-in-aid from the DoE for the purposes of the disbursement ordered above. Ms. Avnish Ahlawat, learned counsel for the DoE, disputes this contention, on the ground that the school has



not been following the orders of the DoE, including with regard to the petitioner's suspension and termination. The School and DoE may resolve this issue between themselves, as permissible in law. It is, however, made clear that their inter-se disputes cannot come in the way of the petitioner's dues being released by the School, within the aforesaid time.

24. The writ petition, alongwith the pending application, is disposed of, with these directions. The School is also directed to pay costs of Rs.25,000/- to the petitioner.

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1. In this contempt petition, the petitioner alleges non-compliance of interim orders dated 16.02.2022, 18.08.2022 and 11.05.2023 in W.P.(C) 2937/2022.

2. By the said orders, the respondents were directed to clear the pending salary of the petitioner within the time period provided. It is the case of the School that it has cleared the petitioner's dues until the purported date of termination, which was 02.08.2022, whereas the petitioner claims that she is entitled to all benefits until the date of superannuation, i.e. 31.07.2023. According to the petitioner, even the original computation, until the date of termination, is erroneous.

3. The writ petition has been disposed of today, upholding the case of the petitioner and granting the School four weeks' time to comply.

4. Having regard to the fact that the petitioner's dues have to be re-computed now, until 31.07.2023, and payment made in terms of the directions of the Court, I do not consider it necessary to keep the contempt petition pending.



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5. The contempt petition is disposed of, with liberty to the petitioner to re-agitate the contentions raised in this contempt petition, in the event the judgment delivered in the writ petition is not complied with.

PRATEEK JALAN, J

MARCH 18, 2025

“Bhupi/SS/kb/