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

\+ W.P.(C) 14428/2022 & CM APPL. 44039/2022

CHARU LATA MATTA .....Petitioner

Through: Mr. Akshay, Advocate.

versus

APEEJAY SCHOOL & ANR. .....Respondents

Through: Mr. Thakur Sumit, Mr. Md. Afaque, Advocates for R-1.
Ms. Latika Choudhary, Advocate for DoE.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

<u>O R D E R</u>

% **21.04.2025**

1. The petitioner is a retired teacher in the respondent No. 1 – APEEJAY School ["the School"] having served for twenty-four years, from 29.06.1988 until her retirement on 31.05.2022. She has filed this writ petition for directions upon the School to fix her pay in terms of the recommendations of the 7th Central Pay Commission ["CPC"] with effect from 01.01.2016, and pay her salary allowances, arrears, increment, leave encashment and other benefits in accordance thereto. She has also sought a direction for grant of Modified Assured Career Progression benefit.

2. By an order dated 07.03.2025, it was recorded as follows:

> *"1. In view of the fact that the liability of the respondent-School for payment of arrears, in accordance with the recommendations of the Seventh Central Pay Commission, is admittedly well settled, the respondent-School is directed to inform the Court as to the amount payable to the petitioner, and the time period within which the payment*

will be made.

2. List in the category of "For Admission" matters on 21.04.2025.

3. The next date of hearing, i.e. 01.09.2025, stands cancelled."

3. Mr. Thakur Sumit, learned counsel for the School, seeks further time for compliance of the said order.

4. The writ petition has been pending for the last two and half years, and more than six weeks have passed since the order dated 07.03.2025. There is no dispute with regard to the petitioner's entitlement to benefits in terms of the recommendations of the 7th CPC. Learned counsel for the parties have, therefore, been heard.

5. The only plea of the School concerns financial hardship; Mr. Sumit states that the School's attempts to raise its fees have been stayed by this Court.

6. The plea of financial hardship on the part of the employer as a defence to pay statutory emoluments to its teachers and staff, has been expressly rejected in several judgments in this Court. In *Omita Mago and Ors. vs. Ahlcon Public School and Ors.* [2022 SCC OnLine Del 5020], a coordinate Bench cited several earlier judgments, and observed as follows:

> *"11. The issue stands settled by the judgment of the Full Bench in the case of Guru Harkishan Public School v. Director of Education, (2015) 221 DLT 448 wherein this Court, while examining applicability of Rule 121 of the Delhi School Education Rules, 1973, though not in the context of Section 10 of the DSE Act, has in detail referred to the judgment of the Supreme Court in Frank Anthony Public School Employees' Association v. Union of India (UOI), (1986) 4 SCC 707, and finally held that the pay and allowances of the employees of unaided minority Schools cannot be less than those of the employees of the Government run Schools. Hence, on that analogy, the petitioners herein, who are employees of an unaided private school are entitled to the benefits as is being given to the employees of the government run schools."*

7. This judgment was upheld by the Division Bench *vide* judgment dated 24.01.2023 in LPA No. 450/2022, holding as follows:

> *"9. Admittedly, the Appellant School is governed by the Delhi School Education Act, 1973 and Section 10 of the Act applies with all force. Paucity of funds cannot be a ground for permitting the school not to pay the emoluments to its employees. The said issue has been dealt with and has been answered against the schools in several judgments passed by this Court [Refer to: Kuttamparampath Sudha Nair v. Managing Committee Sri Sathya Sai Vidya Vihar, W.P.(C) 928/2019 decided on May 06, 2021; Shashi Kiran v. Siiftlltarth International Public School, W.P.(C) No. 2734/2021 and Amrita Pritam v. S. S. Mota Singh Junior Model School, W.P.(C) 1335/2019 decided September 22, 2021; Shikha Sharma v. Guru Harkrishan Public School, W.P.(C) 3746/2020, decided on November 16, 2021].*
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> *10. All these judgments categorically negate the contention raised by the schools that they could not pay the teachers due to paucity of funds."*

8. The matter was carried to the Supreme Court in Special Leave Petition (Civil) Diary No. 5353/2023, while declining special leave to appeal, the Supreme Court granted time to the concerned school to make an application to the High Court for staggered payment.

9. In this view of the matter, I am of the view that directions can now be passed for the computation of the petitioner's dues, subject to verification by the Directorate of Education ["DoE"] in the case of dispute, and time bound direction for payment.

10. Mr. Sumit states that the dues for a period of three years and three months [01.01.2016 to 31.03.2019] are available with the School, but the petitioner has refused to accept the payment. The petitioner is permitted to accept the said amount as computed by the School without prejudice to her rights and contentions.

11. As far as the balance amount is concerned, the following directions

are passed: -

A. The school will compute the balance amount due to the petitioner with a period of six weeks from today. The computation will incorporate the calculation of the amounts from 01.01.2016 to 31.03.2022, as well as the balance amount due after adjustment of the amount paid for the period 01.01.2016 to 31.03.2019.

B. Copies of the computation will be handed over to the petitioner, her counsel on record in this writ petition, and to the DoE.

C. Alongwith the computation, the School will also tender 25% of the balance amount, in accordance with its own computation, to the petitioner.

D. In the event the petitioner disputes the calculation, she may make a representation to the DoE in this regard within two weeks after the receipt of the calculation from the School. In such an eventuality, DoE is directed to examine the records submitted by both the parties, give them an opportunity of hearing and verify the balance amount due to the petitioner within a period of four weeks thereafter.

E. Subject to the aforesaid orders of the DoE, the School will pay the balance amount due to the petitioner in accordance with its own computation in three further monthly instalments of 25% each, i.e. the entire amount will be liquidated in four instalments, the first of which will be tendered alongwith the School's computation, and the other three at intervals of one month each thereafter.

F. In the event the DoE enhances the amount due to the petitioner, it will also give directions with regard to time within that payment must be made.

12. The writ petition, alongwith pending application, is disposed of with the aforesaid directions.

PRATEEK JALAN, J

APRIL 21, 2025
"Bhupi/kb"/