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

+ **W.P.(C) 12825/2025 & CM APPLs. 52339-52340/2025**

AMARJEET KAUR

.....Petitioner

Through: Mr. Jagdeep Singh Lamba,
Advocate with petitioner.

versus

GURU HARKRISHAN

PUBLIC SCHOOL & ORS.

.....Respondents

Through: Mr. Abinash Kumar Mishra,
Advocate for R-1 to R-5
Mr. Yeeshu Jain, ASC with Ms.
Jyoti Tyagi, Ms. Priya Shukla,
Advocates for R-6.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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25.08.2025

1. The petitioner, who retired from the services of the respondent – Guru Harkrishan Public School [“the School”] on 30.04.2025, has filed this writ petition challenging disciplinary proceedings initiated against her by a memorandum dated 28.04.2025.
2. The Memorandum relates to unauthorised absence from duty and, *inter alia*, proposes recovery of salary and emoluments paid to her during the period of unauthorised absence (01.04.2022 to 31.07.2023) amounting to Rs.13,24,104/-.
3. It is contended on behalf of the petitioner that the continuation of



proceedings beyond the date of the petitioner's superannuation on 30.04.2025 is *ultra vires* the powers under the Delhi School Education Act and Rules, 1973 ["DSEAR"]. Mr. Jagdeep Singh Lamba, learned counsel for the petitioner, states that this jurisdictional contention has been raised in the petitioner's reply dated 07.05.2025 to the chargesheet.

4. Mr. Abinash Kumar Mishra, learned counsel for the respondent-School, who appears on advance notice, submits that all contentions taken by the petitioner will be considered by the Inquiry Officer and/or the Disciplinary Authority before any order is passed against her.

5. Mr. Lamba also submits that the petitioner's retiral dues have not been released despite the fact that there is no order directing withholding of her dues.

6. As far as this aspect is concerned, Mr. Mishra states, upon instructions, that no dues have been withheld on account of pending disciplinary proceedings, and the petitioner's dues will be released in accordance with the law, including the decision of this Court in *Shikha Sharma v. Guru Harkrishan Public School & Ors.*¹ The operative portion of the judgment in *Shikha Sharma* reads as follows:

"26. The arrears thereof under the 6th CPC shall be paid to the petitioners with interest at the rate of 6% per annum. The arrears of 7th CPC shall not carry any interest. The fixation of pay and arrears shall be made/paid within a period of six months from today. All retiral benefits shall also be fixed and released to the petitioners, who have retired from their service within six months from today. As an immediate assistance, the respondents / DSGMC / GHPS Society / GHPS shall release an amount of ₹5 Lacs to each of the retirees within one month, subject to adjustment at the time of full payment. It is made clear that the failure to pay the amounts within six months as directed above shall entail payment of a higher interest of 9% per annum on the

¹ W.P.(C) 3746/2020 & connected, decided on 16.11.2021, [hereinafter, "*Shikha Sharma*"].



arrears of both 6th and 7th CPC and retiral benefits.”

7. Having heard learned counsel for the parties, I am of the view that the disciplinary proceedings are not required to be interdicted at this stage. In the present case, the proceedings were initiated by issuance of the chargesheet during the period the petitioner was in service. I do not find any reason to depart from the general position that challenges to disciplinary proceedings ought to await the orders of disciplinary authorities, at which stage all available contentions can be taken by an aggrieved employee. Reference in this regard may be made to the judgment in *Union of India v. Kunisetty Satyanarayana*², wherein the Supreme Court has held that ordinarily no writ lies against a show cause notice or chargesheet, as the mere issuance of the same does not give rise to any cause of action, as it does not amount to an adverse order affecting the rights of any party, unless it is wholly illegal, or has been issued by a person/authority wholly without jurisdiction. Several later judgments of the Supreme Court, including *Secretary, Ministry of Defence & Ors. v. Prabhash Chandra Mirdha*³, and *State of Jharkhand v. Rukma Kesh Mishra*⁴, have reiterated the same position.

8. In such circumstances, the matter is left to the Inquiry Officer/Disciplinary Authority to take a final decision on all the defences raised by the petitioner, including on the maintainability of the proceedings under the DSEAR.

9. As far as payment of retiral benefit is concerned, paragraph 26 of *Shikha Sharma* clearly requires that the amount of Rs. 5 lakhs should be

² (2006) 12 SCC 28, paragraphs 13-16.

³ (2012) 11 SCC 565.



paid to each of the retirees within one month, subject to adjustment at the time of full payment, and failure to pay the entire amount of superannuation benefits within six months would entail payment of interest @ 9% per annum.

10. Having regard to these directions and the submissions of Mr. Mishra recorded above, the respondents are directed to release the sum of Rs. 5 lakhs within two weeks from today, failing which the said sum shall carry interest at the rate of 9% per annum.

11. Mr. Mishra states that the petitioner has been proceeded against *ex parte*, as she did not join the inquiry proceedings. It is directed that the petitioner may join the inquiry proceedings on the next date fixed, i.e., 29.08.2025. Mr. Lamba assures the Court, on instructions, that the petitioner will cooperate in the inquiry proceedings. It is made clear that the petitioner will be entitled to make her arguments on all issues, which may be decided by the Inquiry Officer as considered appropriate, in terms of the submissions of Mr. Mishra hereinabove. This order does not require consideration of maintainability as a preliminary issue; that is a matter within the Inquiry Officer's discretion.

12. The writ petition, alongwith pending applications, is disposed of with these directions.

13. All rights and contentions of the parties are left open.

PRATEEK JALAN, J

AUGUST 25, 2025/‘Bhupi/Jishnu’/

⁴ 2025 SCC OnLine SC 676.