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

+ **W.P.(C) 9623/2017, CM APPL. 39170/2017 & CM APPL. 1248/2019**

ARYA PUTRI PATHSHALA AND ANRPetitioners

Through: Mr. Pradeep Kumar & Ms. Sanskriti,
Advts.

versus

PREETI KUMARI AND ANRRespondents

Through: Mr. Padma Kumar & Mr. Gurpreet
Singh, Advts. for R-1.
Mr. Tushar Sannu, SC for MCD with
Mr. Saurabh Pandey, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE AVNEESH JHINGAN

ORDER

05.12.2025

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1. This petition is filed seeking quashing of order dated 15.09.2017 (for short 'impugned order') passed by the Delhi School Tribunal (for short 'Tribunal') whereby the discontinuation of service of respondent no.1 was set aside and reinstatement was directed.
2. Learned counsel for the parties are at *ad idem* that during the pendency of this petition, the issue of reinstatement of respondent no.1 no longer survives in this petition, for the reason that respondent No.1 has got a regular service in the MCD.
3. The representation of the respondent No.1 claiming backwages under Rule 121 of Delhi School Education Rules, 1973 has been rejected for which remedies in accordance with law would be availed. The only issue surviving



is of wages from date of order of Tribunal.

4. Brief facts are that respondent No.1 initially was appointed on 21.11.2014 for eighty-nine days, thereafter, extensions were given and respondent No.1 continued to serve till 19.07.2016 despite the fact that vide resolution dated 11.05.2016, the name of respondent No.1 was not forwarded to the Director of Education.

4.1 The removal from service was challenged before the Tribunal. The appeal was allowed with the direction to reinstate respondent No.1 with backwages from the date of the passing of the order.

5. Heard learned counsel for the parties.

6. It is not disputed by the learned counsel for the parties that Tribunal allowed the appeal on the ground that no prior approval from Director of Education was taken before passing the termination order.

7. Before dealing with the issue, it would be relevant to note that in paragraph 16 of the impugned order the Tribunal proceeded on the basis that respondent No.1 a contractual employee was being replaced by another contractual employee. The case of the petitioner is that there was no replacement. Ms. Bharti Verma was initially appointed along with respondent No.1 and continued.

8. It would be apposite to note that the Tribunal recorded a finding that the new appointee against the post of respondent No.1 was not having the required qualification.

9. The Tribunal before deciding the issue as to whether respondent No.1 was removed from service legally at the first instance has to decide the foundational fact as to whether the contractual employee was being replaced by another contractual employee or not.



10. In view of the above, the impugned order is set aside. The matter is remitted back to the Tribunal to decide the appeal afresh in accordance with law.

11. The writ petition is disposed of. Pending applications stand disposed of.

AVNEESH JHINGAN, J

DECEMBER 5, 2025

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