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

+ **W.P.(C) 6986/2019**

PRADEEP SOLANKI

.....Petitioner

Through: Mr. Nirmal Pandit, Advocate with
Petitioner (in-Person).

versus

K. R. MANGALAM WORLD SCHOOL AND ORS.

.....Respondents

Through: Mr. Kamal Gupta, Mrs. Tripti Gupta,
Mr. Sparsh Aggarwal and Mr.
Siddharth Arora, Advocates for
School.

Mrs. Avnish Ahlawat, SC (GNCTD)
with Mrs. Tania Ahlawat, Mr. Nitesh
Kumar Singh, Ms. Aliza Alam and
Mr. Mohnish Sehrawat, Advocates
for GNCTD.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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06.04.2026

1. This writ petition is directed against order dated 16th November, 2018, passed by the Delhi School Tribunal,¹ dismissing the appeal filed by the Petitioner under Section 8(3) of the Delhi School Education Act, 1973.²

Factual Background

2. The Petitioner was appointed as a Chess Coach in the Respondent School by letter dated 23rd August, 2007. It appears that his engagement was continued from time to time under subsequent communications dated 31st March, 2008 and 1st July, 2009.

3. During service, an FIR bearing No. 340/2015 came to be registered

¹ "DST"



against the Petitioner at Police Station Vikaspuri under Sections 354, 506 and 509 IPC on the complaint of one Ms. Seema Verma. The Petitioner was arrested in connection with the said case and was released on bail on 17th April, 2015.

4. According to the Petitioner, after his release on bail, he reported at the Respondent School to resume duty but was not permitted to enter the premises. He asserts that he thereafter sent a letter dated 20th April, 2015 by speed post expressing his willingness to rejoin. His grievance is that the School neither responded to the said communication nor took any formal decision in writing. He further says that he continued approaching the school and that on 30th December, 2015 he was orally informed that his services had been terminated and that he need not report any further.

5. The Petitioner preferred an appeal before the DST under Section 8(3) of the DSE Act, alleging the said action as illegal and contrary to the Act and the Rules framed thereunder. By the impugned order dated 16th November, 2018, the DST dismissed the appeal.

6. The DST held, in substance, that the Petitioner had failed to establish that he had, in fact, communicated any intention to rejoin service immediately after his release on bail; that the alleged letter dated 20th April, 2015 had not been satisfactorily proved; that even on the Petitioner's own showing, he had remained away from the School for several months; and that the case was one of abandonment of service rather than dismissal or removal by the School. The DST also held that the appeal was barred by limitation, taking the view that the cause of action had arisen much earlier than 30th December, 2015.

² "DSE Act"



Petitioner's Case

7. Counsel for the Petitioner submits that the impugned order is unsustainable both on fact and in law. He argues, first, that the DST misread the record and failed to notice that the Petitioner had consistently asserted that he was prevented from joining duty after release on bail. It is submitted that the Petitioner had sent a written intimation dated 20th April, 2015 to the Respondent School stating that he wished to resume duty, and that the DST erred in discarding that document.

8. It is further submitted that the DST fell into error in treating the matter as one of abandonment. It is contended that the Petitioner never intended to sever the relationship of employment. On the contrary, his case throughout has been that he attempted to resume duty, was repeatedly kept out, and was ultimately told on 30th December, 2015 that his services had come to an end. In that view, it is argued, the case was one of termination by the management and not abandonment by the employee.

9. Counsel submits that the DST was also wrong in computing limitation from April, 2015. According to him, the relevant cause of action arose only when the Respondent School made its position explicit on 30th December, 2015 by orally informing the Petitioner that his services stood terminated. The appeal having been filed on 9th February, 2016 was, therefore, within the prescribed period.

10. It is further submitted that the Respondent School has taken inconsistent stands. On one hand, it states that the Petitioner never reported back and abandoned service. On the other hand, it is now argued that the Petitioner's service had effectively come to an end in the background of the criminal allegations. Counsel submits that these positions cannot stand



together.

11. He also places reliance on the subsequent judgment dated 11th July, 2024 passed by the Metropolitan Magistrate in FIR No. 340/2015, in which the Principal of the Respondent School admitted in cross-examination that the Petitioner was “*told not to come to school*” when he refused to apologise to the complainant. Counsel submits that this material goes to the root of the controversy and demolishes the School’s plea of abandonment.

12. It is also argued that the later acquittal of the Petitioner in the criminal case reinforces the submission that the action taken against him by the Respondent School was wholly unfair and was founded on a false accusation engineered at the behest of the management. Counsel submits that if, in substance, the Petitioner was terminated from service, the School could not have dispensed with the statutory safeguards by simply avoiding a written termination order. The absence of a formal order, he submits, cannot be used as a device to defeat the protection available under the DSE Act.

Respondent School’s Case

13. *Per contra*, counsel for the Respondent School defends the order of the DST and submits that no interference is called for in exercise of writ jurisdiction. He contends that the Petitioner was engaged only as a Chess Coach for an optional activity and was never appointed against any regular sanctioned teaching post. According to him, the Petitioner’s engagement was purely temporary, *ad hoc* and contractual, and he was never confirmed in service. It is further submitted that after the Petitioner was taken into custody on 4th April, 2015, he never returned to report for duty. The Respondent School’s case is that the Petitioner did not seek permission, did not furnish any proper intimation, and remained absent for an extended and



unexplained period. In those circumstances, according to the School, the only possible conclusion was that he had abandoned service.

14. Counsel submits that since the Petitioner was never formally removed or dismissed, there was no occasion to invoke the provisions governing punitive termination. It is argued that Rule 120 of the DSE Rules applies where a penalty such as dismissal, removal or reduction in rank is imposed, but has no application where the employee himself abandons service. He also supports the DST's conclusion on limitation. He submits that, even on the Petitioner's own case, he was denied entry to the Respondent School soon after release on bail in April, 2015. If he genuinely believed that the School was illegally preventing him from joining, he ought to have approached the DST without delay. Instead, he waited until February, 2016. This, according to the School, clearly shows that the later date of 30th December, 2015 was introduced only to somehow bring the appeal within limitation. He further submits that the alleged letter dated 20th April, 2015 was rightly disbelieved by the DST. The School has consistently denied receipt of that letter. It is argued that no satisfactory proof of delivery was produced before the DST and that the document was sought to be introduced belatedly. It is also submitted that the Petitioner cannot seek any advantage from his later acquittal in the criminal case. It is argued that the issue before this Court is not whether the FIR ultimately resulted in conviction or acquittal, but whether the Petitioner, in fact, returned to join service or abandoned the same. Counsel submits that the subsequent criminal judgment does not alter the legal effect of the Petitioner's prolonged absence. It is lastly contended that the findings returned by the DST are findings of fact based on appreciation of the material before it, and that this Court, in writ



jurisdiction, ought not to re-appreciate the evidence merely because another view may be possible.

Analysis and findings

15. The Court has considered the submissions advanced by the parties. The central issue is not whether the Petitioner was later acquitted in the criminal case, nor whether the allegations in the FIR were true or false in every detail. The issue is narrower: whether the record before the DST justified the conclusion that the Petitioner had abandoned service of his own accord, or whether the matter required adjudication on the premise that the School had, in substance, brought the relationship to an end without a formal written order, amounting to termination.

16. The DST answered that issue against the Petitioner by treating the case as one of abandonment. In the opinion of the Court, that conclusion is not free from difficulty; not because the Petitioner's case stands proved on this record, but because abandonment, in law, is not a matter of mere absence. It is a matter of intention.

17. The law on that point is settled. Abandonment or relinquishment of service is always a question of intention, and such intention is not ordinarily to be inferred without adequate material. Long absence may, in a given case, justify such an inference. But absence by itself is not abandonment. The surrounding circumstances must reasonably point to a conscious decision on the part of the employee to sever the jural relationship.

18. The decisions in *Vijay S. Sathaye v. Indian Airlines Ltd.*,³ *Rajni Gupta v. Mother's International School*,⁴ and *Surjan Singh v. Delhi*

³ (2013) 10 SCC 253.

⁴ 1987 SCC OnLine Del 455.



School Tribunal,⁵ relied upon in the impugned order, do not, in the opinion of this Court, conclude the matter in the manner assumed in the impugned order. Those decisions undoubtedly recognise that prolonged unauthorized absence may, in an appropriate case, amount to abandonment of service, and that once abandonment is clearly made out, the procedural requirements attending dismissal or removal do not arise in the same way. But those authorities do not dispense with the need to first determine whether the employee's absence was truly unilateral and whether the record justifies the inference of an intention to sever the jural relationship. *Vijay S. Sathaye* itself emphasises that abandonment is a matter of intention, and also distinguishes abandonment from termination by noting that termination involves positive employer action.

19. In the present case, the Petitioner's consistent stand has not been one of mere absence. His case, rather, is that upon being released on bail, he made efforts to rejoin duty, was prevented from doing so, and was thereafter informed that his services had been brought to an end. Whether this version ultimately merits acceptance is a separate issue. However, it could not have been disregarded by treating prolonged absence, in isolation, as sufficient to infer abandonment of service. The impugned order, in the opinion of this Court, does not reflect a satisfactory consideration of the Petitioner's assertion that he had sought to resume duty but was prevented from doing so by the employer.

20. Once that principle is kept in view, the difficulty with the impugned order becomes apparent. The Petitioner's absence did not begin in a vacuum or without cause. The Respondent School was aware as to why he was not

⁵ 2016 SCC OnLine Del 6452.



on duty. He had been arrested in connection with an FIR lodged by a co-employee. He was thereafter released on bail. The dispute between the parties begins from that point. The Petitioner states he sought to resume duty and was kept out. The School contends he never came back and simply abandoned service. In such a situation, the issue of intention could not be decided merely by counting the months that followed.

21. The Court is unable to fault the DST in treating the alleged letter dated 20th April, 2015 with circumspection. The said letter did not feature in the original appeal in any clear or central manner and appears to have been relied upon at a later stage. Moreover, no satisfactory proof of its dispatch or delivery was placed before the DST. The DST was, therefore, entitled to decline to place substantial weight on that document. The Petitioner, therefore, cannot be permitted to rest his case entirely on the said letter.

22. However, the matter could not have rested there. Even if the alleged letter dated 20th April, 2015 were to be excluded from consideration, the DST was still required to examine whether the remaining material on record was sufficient, in law, to sustain an inference of abandonment. That question warranted a more careful and considered examination than is reflected in the impugned decision.

23. The DST appears to have proceeded on the premise that, since the Petitioner failed to satisfactorily establish the alleged communication dated 20th April, 2015, and there was subsequent silence for several months, an inference of abandonment necessarily followed. Such reasoning, in the opinion of this Court, adopts an unduly truncated route to that conclusion. It does not adequately engage with the legal requirement that abandonment must be founded upon a clear intention to relinquish service. The inability to



prove a particular communication may, at best, weaken the Petitioner's case; it does not, by itself, establish a conscious or voluntary abandonment of employment.

24. There is another difficulty. The DST proceeded on the footing that the cause of action arose in April, 2015, when, according to the Petitioner, he was first not permitted to rejoin duty. However, the Petitioner's pleaded case before the Tribunal was that the Respondent School continued to keep him in a state of uncertainty and that it was only on 30th December, 2015 that he was finally informed that his services had come to an end. Whether that case was believable or not was a matter for adjudication. But it could not be disbelieved entirely. The DST could not, in effect, discard the Petitioner's case on merits and then adopt that very rejection as the basis for computing limitation, without first determining the foundational factual issue in a reasoned manner. Put differently, if the Petitioner's case is of an oral termination finally communicated on 30th December, 2015, limitation cannot be computed on the assumption that the cause of action arose months earlier.

25. There is also one further circumstance which required closer attention. If the Respondent School genuinely understood the case as one of voluntary abandonment from April 2015 onward, one would ordinarily expect some contemporaneous response from the management: a communication calling upon the Petitioner to report for duty, an explanation for unauthorized absence, or at least an indication that continued absence would be treated as abandonment. The record, as presently noticed, does not show any such contemporaneous step. This circumstance does not, by itself, disprove abandonment. It does, however, make it unreliable to accept abandonment as self-evident merely from the lapse of time, particularly when the Petitioner's



case was that he had been deliberately kept out. It is in that context that ***Rajni Gupta*** and ***Surjan Singh*** must be understood. The School has relied on these decisions to submit that no enquiry is necessary where the employee abandons service. That proposition, however, does not dispense with the need to first establish that the case is truly one of abandonment. Those decisions also do not lay down that once an employee is absent for some length of time, abandonment may simply be assumed. They proceed on the footing that abandonment is first established on facts. They do not permit the Court or the Tribunal to assume abandonment where the employee's case is that he was, in substance, thrown out and thereafter denied entry.

26. This, in the opinion of the Court, strengthens the need for a fresh look is the subsequent material now relied upon by the Petitioner, namely the judgment dated 11th July, 2024 in the criminal case. The Court is not treating the acquittal, by itself, as determinative of the service dispute. However, the petitioner relies on that judgment for a different reason. According to him, the Principal of the school, while deposing in the criminal case, stated that the Petitioner's services were terminated when he was asked to apologise to the complainant and refused. If that statement is indeed borne out by the record, it would be fundamentally inconsistent with the Respondent School's case of abandonment.

27. The judgment rendered in the criminal proceedings was not placed before the DST when it decided the matter in 2018. It would, therefore, be inappropriate for this Court, in exercise of its writ jurisdiction, to finally adjudicate a disputed service matter solely on the basis of a subsequent document which the Tribunal had no occasion to consider. At the same time,



such material cannot be altogether ignored, for, if genuine and properly appreciated, it bears directly upon the core controversy.

28. There is yet another legal dimension. If the Petitioner's case ultimately establishes that his services were brought to an end at the instance of the employer, albeit without a formal written order, the Respondent School cannot be permitted to circumvent the mandate of Section 8(2) of the DSE Act merely by refraining from issuing such an order. The Supreme Court, in *Raj Kumar v. Director of Education*,⁶ made it clear that prior approval of the Director of Education under Section 8(2) is mandatory before termination of the services of an employee of a recognised private school, and that the provision is a safeguard against arbitrary severance.

29. It must, however, be clarified that this issue would arise only upon a proper determination of the foundational controversy. If the case is one of abandonment, the case stands on one footing. If it was termination disguised as abandonment, it stands on another. The DST's order does not satisfactorily resolve that anterior question.

30. To conclude, abandonment is a unilateral act attributable to the employee, whereas termination is a positive act of the employer; the two are conceptually distinct, as recognised in *Vijay S. Sathaye*. On the present record, this Court is not persuaded to return a definitive finding that the Petitioner has proved termination. Equally, the reasoning adopted by the DST does not warrant an unqualified affirmation of abandonment. In these circumstances, a remand would be the most appropriate course.

31. In these circumstances, the Court is of the view that the impugned order cannot be sustained. The DST will, therefore, have to reconsider the

⁶ 2016 SCC OnLine SC 317.



matter afresh. It shall examine, first, whether the Petitioner's conduct, viewed in the complete factual setting, truly established an intention to abandon service. In doing so, it shall bear in mind that abandonment is a question of intention and cannot be inferred merely from absence without adequate supporting circumstances. Second, it shall consider the effect, if any, of the later court judgment dated 11th July, 2024 passed in criminal proceedings, limited to the extent it may contain material relevant to the Respondent School's stand on abandonment or termination. Third, if the DST concludes that the Petitioner was, in substance, terminated by the school, it shall then examine the legal consequences of Section 8(2) and Section 8(3) of the DSE Act in the light of the judgment in ***Raj Kumar***.

32. The matter is accordingly remanded to the DST for fresh consideration, in accordance with law. All contentions of the parties on merits are kept open. Since the dispute dates back to 2015, it would be appropriate for the Tribunal to decide the restored appeal as expeditiously as possible, preferably within a period of three months from the date the parties appear before it.

33. The petition is disposed of.

SANJEEV NARULA, J

APRIL 6, 2026/as