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

+ **W.P.(C) 1308/2016**

KUPAMMA

.....Petitioner

Through: Mr. Rohit Dutta and Mr. Shyam
Kishor Maurya, Advocates.

versus

TELUGU MIDDLE SCHOOL AND ORS

.....Respondents

Through: Mr. Ravi Gopal, Advocate for R-1 &
2.

Mr. Dhruv Rohatgi, Ms. Chandrika
Sachdev and Mr. Dhruv Kumar,
Advocates for DoE.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

19.03.2026

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1. This petition concerns the legality of the termination of the Petitioner, who had been serving since April 1988 as a part-time water woman in Telugu Middle School [“*School*”], an aided institution run by Telugu School Society [“*Society*”]. The Petitioner’s services came to be terminated by the Society *vide* order dated 23rd December, 2008, which was challenged before the Delhi School Tribunal [“*DST*”]. By order dated 23rd December, 2015, the DST upheld the termination on the footing that the Directorate of Education [“*DoE*”] had neither approved her appointment nor released grant-in-aid against her name or post, and further held the appeal to be barred by limitation. The present case, therefore, turns on whether the Petitioner had any enforceable statutory protection in service despite the



Respondents' stand on approval and grant-in-aid, and whether such termination can be sustained in the manner adopted.

Factual Background

2. The Petitioner entered service on 15th April, 1988 in Telugu Middle School, Sector-II, R.K. Puram. Her appointment was on a fixed monthly remuneration of INR 489/-, and the appointment letter stated that the engagement would not confer any right to regular selection and would remain subject to the approval of the DoE. The school was brought on the grant-in-aid list with effect from 27th July, 1988. In September 1988, the Selection Committee considered the cases of several persons who had been appointed on *ad-hoc* or temporary basis and recommended them for regularisation, and the Managing Committee thereafter resolved to place those appointments before the DoE for approval. By letter dated 25th October, 1988, the DoE sanctioned 12 posts for the school with effect from 1st September, 1988, including two Class IV part-time posts.

3. The difficulty arose in the years that followed. The record placed before the DST shows that, while the Petitioner continued to work, later post-fixation and grant-in-aid records did not reflect release of grant-in-aid against her name. The post-fixation for 1994-95 recorded six teaching posts and no Class IV post, and for 1995-96 one full-time post of chowkidar was shown. The DST also noted that the staff statements produced for later years did not record the Petitioner as an employee whose salary was being paid by the DoE. At the same time, the Society itself wrote to the DoE on 18th May, 2007 seeking sanction of one post of peon or water woman, recording that the Petitioner had been serving since 1988 and requesting that her services be regularised against such a post.



4. On 23rd December, 2008, the Society terminated the Petitioner's services. The order gave two reasons: first, that there was no sanctioned post of water woman in the school and the DoE had not agreed to sanction one despite repeated requests; and second, that the work was no longer required because the school had arranged purified drinking water through water coolers and Aqua Guard systems. The Petitioner thereafter sent a legal notice, pursued representations, and approached the National Commission for Scheduled Castes ["NCSC"], following which an enquiry was conducted through the DoE. She eventually filed Appeal No. 12/2011 before the DST which was dismissed by impugned order dated 23rd December, 2015, the operative portion of which reads as under:

"22. From the above discussion this Tribunal is of the opinion that the Department had neither issued Grant-in-Aid against her name nor had sanctioned her post of part-time Water Women. From the record available on the record it is also clear that R2 Society had also requested Directorate of Education to sanction her post and to issue Grant-in-Aid against her name. But the Department had not approved the same. In these circumstances this Tribunal is of the opinion that there is no illegality in the termination order dated 23.12.2008 issued by R1 School because the Directorate of Education had not approved her appointment and not issued Grant-in-Aid against her name/ post.

23. It is also correct that the Appellant has filed the present appeal on 08.03.2011 in this Tribunal challenging her termination order dated 23.12.2008. It is also correct that she has not moved any application for condonation of delay. Even there is no pleadings in the entire appeal with regard to the condonation of delay in filing the present appeal. In these circumstances this Tribunal is also of the opinion that this appeal is barred by limitation.

24. In view of the above discussion the appeal filed by the Appellant is hereby dismissed. Order accordingly. File be consigned to record room."

Contentions

5. The Petitioner contends that she was appointed in April 1988 to work in Telugu Middle School and that, whatever distinction the Respondents



now seek to draw between the school and the Society, the engagement was for duties in the school and was in fact acted upon there for nearly two decades. She relies on the proceedings of the Selection Committee in September 1988, the resolution of the management to regularise the appointments so considered, and the Directorate's post-fixation order dated 25th October, 1988 sanctioning two part-time Class IV posts for the school. Her submission is that, after having taken work from her continuously for such a long period, the Respondents cannot now turn around and deny the institutional basis of her appointment.

6. The Petitioner also places reliance on the management's own communication dated 18th May, 2007, by which sanction of a post was sought so that her services could be regularised, as well as the later enquiry report dated 14th September, 2009, questioned the justification for her termination and recorded that a Class IV employee was still required. On that basis, the Petitioner submits that she was an "*employee*" working in a recognised school and could not be denied statutory protection by an artificial separation between the school and the Society. She says that the order dated 23rd December, 2008 is arbitrary, was passed without notice or hearing, and rested on grounds that are unsustainable. It is also contended that, in any event, the termination could not have been effected without obtaining prior approval of the Director under Section 8(2) of the Delhi School Education Act. Her case, in essence, is that whatever may be said about approval or grant-in-aid, she could not have been removed in so abrupt a manner after rendering long and continuous service in the school.

7. The Respondents contend that the Petitioner was never a regular employee of the aided school, but only a part-time appointee of the Society



on a consolidated honorarium paid from its own funds. They rely on the appointment letter itself to submit that, from the outset, she was clearly informed that the engagement would confer no right to regular selection and would remain subject to the approval of the DoE. According to them, the sanction of posts in 1988 did not amount to approval of the Petitioner's individual appointment, and under the statutory scheme, grant-in-aid is released only in respect of duly approved appointments made against sanctioned posts.

8. The Respondents' case is that no grant-in-aid was ever released against her name, no salary was ever paid to her by the DoE, and her appointment was never approved by the DoE at any stage. In support of that position, they place reliance on the post-fixation statement for the year 1995-96, which shows sanction of six teaching posts and one full-time Class IV post of Chowkidar, but no part-time post of a water woman. They also refer to the staff statements filed by the school for the period from 2001 to 2008-09, none of which show Petitioner's name as an employee of the school, and whereas the name of one Ranvir Singh is shown as full-time Chowkidar. The pay bill registers produced by the DoE are also relied upon to show that the Petitioner was never paid from aided funds. The Respondents further point out that the Society did make requests to the DoE to sanction a post for the Petitioner and release grant-in-aid against her name, but those requests were never accepted. On that basis, they submit that the DST rightly held that the DoE had neither approved her appointment nor sanctioned grant-in-aid against her name or post.

9. The Respondents further contend that the Society and the school are distinct, and that the Petitioner remained, at best, an employee of the Society



alone. They accordingly submit that the protection of the Delhi School Education Act and the Rules, 1973 cannot be invoked by a person who never entered service through the statutory route of appointment against a sanctioned aided post. They also rely on the termination order to say that the work itself had ceased to exist once the school installed water coolers and water purification systems. They also submit that the appeal before the DST was grossly delayed and was rightly rejected on that ground as well. Lastly, it is argued that mere long continuation in part-time, *ad hoc*, or casual service does not, by itself, create any right to regularisation or continuance in service.

Analysis

10. The question before this Court is a narrow one: whether the order of the DST discloses any infirmity that warrants interference under Article 226. The answer, in the view of the Court, must be in the negative.

11. The Court does not propose to rest the matter on limitation. The Tribunal has noticed that aspect, and Section 8(3) of the Delhi School Education Act, 1973 prescribes a period of three months for filing an appeal. The present case, however, does not require decision on that footing. Even if delay is left aside, the Petitioner does not make out a case for interference on the merits.

12. The Petitioner first contends that she was appointed to work in Telugu Middle School itself and that, after taking work from her for years together, the Respondents cannot now seek to separate the school from the Society. The submission carries weight to a limited extent. Section 2(h) of the Act defines “*employee*” to mean a teacher and to include “*every other employee working in a recognised school*”. The Court is, therefore, not inclined to



reject her case at the threshold on a bare technical plea that she could never invoke the statutory framework at all. That, however, takes the matter only so far. The real question is whether she established a legal right to continue as an approved aided employee against a sanctioned post in her favour.

13. That is where the Petitioner's case begins to lose ground. The appointment letter dated 10th April, 1988 is explicit. It records a part-time engagement on a fixed honorarium. It further states that the appointment would confer no right to regular selection and would remain subject to the approval of the DoE. The Petitioner is justified in emphasising that the post-fixation order dated 25th October, 1988 must not be overlooked. That document does show that part-time Class IV posts formed part of the sanctioned strength of the school at that stage. However, that circumstance, by itself, does not carry the Petitioner to the point she seeks to reach. The sanction of posts in the school establishment is one thing. Approval of an individual appointment against such a post is another. The former may establish that posts existed within the institutional structure. The latter still requires proof that the employee's own appointment was duly approved in accordance with the statutory scheme governing aided schools. On a cumulative reading of the record, that link remains unestablished.

14. Indeed, the subsequent record runs the other way. The Petitioner's name does not appear in the grant-in-aid trail as an employee in whose favour aid was released. Later post-fixation record does not indicate a part-time "*water woman*" post. The staff statements and pay records relied upon by the Respondents do not reflect her as part of the approved aided staff. More than anything else, the management's own letter of 18th May, 2007 asking the authorities to sanction a Group 'D' post so that her services could



be regularised seriously weakens the present case. If the Petitioner had already been occupying a sanctioned post, there would have been no reason for the management itself to seek creation or sanction of one in 2007 for that purpose. The DST was entitled to treat this as a pertinent feature of the record.

15. The Petitioner did seek to contend that, even if her appointment had not been formally approved, the long and continuous nature of her service, coupled with the requirement of a Class IV employee in the school as reflected in the enquiry report, entitled her to protection or absorption. That submission cannot be accepted in law. Mere continuance in service over a long period does not, by itself, create a right to regularisation, absorption, or permanent continuance where the initial engagement was not made in accordance with the governing legal framework. In *Secretary, State of Karnataka & Ors v. Umadevi (3) & Ors.*¹, the Constitution Bench made it clear that courts are not to direct regularisation or permanent continuance of temporary, *ad hoc*, casual, daily-wage, or contractual appointees in a manner that cuts across the constitutional and statutory scheme of appointment. The same principle has continued to guide later decisions. The Petitioner's long service, therefore, cannot by itself convert a part-time engagement, expressly made subject to approval, into an appointment against sanctioned post.

16. The Petitioner placed considerable weight on the post-fixation order dated 25th October, 1988, and understandably so, for it is the strongest document in her favour. That document has already been considered above. At the highest, it shows that part-time Class IV posts stood sanctioned for



the school at that stage. It does not, however, establish that the Petitioner's own appointment was approved by the DoE, nor does it negate the later record which does not treat her as part of the approved aided staff. The DST, therefore, cannot be said to have erred in the view it has taken.

17. The Petitioner has also contended that the termination was invalid for want of prior approval under Section 8(2) of the Delhi School Education Act. That submission does not carry the case any further. The present case does not turn on the applicability or otherwise of that provision. The foundational requirement for invoking such protection is that the Petitioner establishes a legal status as an employee appointed against a sanctioned and approved post. As discussed above, that requirement has not been met.

18. The Petitioner has also questioned the termination order as arbitrary, including the assertion that the work itself had ceased to exist. Those submissions again do not alter the position. The case ultimately turns on whether the Petitioner had shown any enforceable right to continue in service. As discussed above, she failed to do so. In that view of the matter, the challenge to the termination order cannot succeed merely on the basis that the reasons recorded by the management were inadequate.

19. The writ petition is, accordingly, dismissed.

SANJEEV NARULA, J

MARCH 19, 2026/as

¹ (2006) 4 SCC 1.