



\$~37

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

+ **W.P.(C) 14351/2022**

RENU MENDIRATTA

.....Petitioner

Through: Mr. S.M. Srivastava & Mr. Aniket
Kotnala, Advocates.

versus

DELHI CONVENT SCHOOL & ORS.

.....Respondents

Through: Mr. Yeeshu Jain, ASC, Ms. Jyoti
Tyagi, Ms. Vishruti Pandey, Mr.
Sachin Garg, Advocates.
Mr. Sachin Rai & Mr. Anshuman
Gupta, Advocates for R-1 to 3.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

14.01.2026

%

1. This writ petition, *inter alia*, seeks a direction to the Respondents to release full back wages to the Petitioner, calculated on the basis of her last drawn salary, for a period of three years and three months, *i.e.*, from 1st April, 2014 to 16th August, 2017.
2. The Petitioner was appointed as a Trained Graduate Teacher¹ with Delhi Convent School/Respondent No. 2 in the year 1996. Subsequently, she was placed under suspension by communication dated 4th April, 2014, which ultimately culminated in the termination of her services by order dated 18th May, 2015, with retrospective effect from 4th April, 2014.
3. Aggrieved by the said termination, the Petitioner preferred an appeal

¹ "TGT"



before the Delhi School Tribunal.² This appeal was allowed by order dated 7th July, 2017, whereby her termination was declared illegal and the Respondent School was directed to reinstate her within a period of one month. It was further held that the Petitioner would be entitled to full wages from the date of the said order along with all consequential benefits. Insofar as the claim for back wages was concerned, the Petitioner was directed to submit a representation under Rule 121 of the Delhi School Education Rules, 1973, which representation was directed to be decided within a period of four weeks by passing a speaking order.

4. In compliance with the aforesaid directions, the Petitioner submitted a representation to the Respondent School on 5th August, 2017. The Respondent School accepted the order passed by the DST and, accordingly, issued an order dated 10th August, 2017, reinstating the Petitioner with effect from 16th August, 2017. However, notwithstanding the said representation, no order was passed by the Respondent School with respect to the Petitioner's claim for back wages.

5. Thereafter, the Petitioner filed an execution petition before the DST seeking recovery of her dues amounting to ₹10,49,797/-, pertaining to the period from the date of her suspension till the date of her reinstatement. However, this petition was dismissed by the DST by order dated 30th October, 2018, holding that it lacked jurisdiction to grant back wages, payment of subsistence allowance, medical leave, reimbursement, and other allied reliefs.

6. Aggrieved, the Petitioner has filed the instant petition, seeking the following reliefs:

² "DST"



*“a) Pass an order/direction to direct the respondents/School to pay the full back-wages of the petitioner as per her last drawn salary for the period of 3 years, 3 months from 01.04.2014 to 16.08.2017 and;
b) Pass an order/directions to the Respondent no 1 to 3 to refund the 34% deduction out of salary by the name of 'voluntary deduction', and declare it as illegal since such deduction is possible only under minor penalty proceeding under rule 117,a (ii), which had neither been initiated nor happened ever and;
c) Pass an order/ directions to direct the respondent no. 1 to 3 to permit the petitioner to collect its personal belonging lying in the Almirah in School in school”*

7. The Respondent School has filed their counter-affidavit, wherein the allegations levelled by the Petitioner have been denied. It is averred that several complaints were received against the Petitioner alleging infliction of corporal punishment upon students, and the Petitioner was issued warnings in this regard, to which she tendered an apology. The Respondent School has further asserted that all applicable rules and regulations were duly followed; the Petitioner was placed under suspension after due process; and that the Delhi Commission for Protection of Child Rights as well as the Director of Education were duly informed. It is further contended that, upon their satisfaction, the services of the Petitioner were terminated pursuant to a resolution passed under the chairmanship of Dr. Darshan Singh. However, the counter-affidavit is conspicuously silent insofar as the issue of non-payment of back wages is concerned, and no explanation has been furnished with regard to the Petitioner's entitlement to claim back wages pursuant to the order passed by the DST.

8. The Court has considered the aforementioned contentions. The undisputed position is that the Petitioner's termination has been declared illegal by the DST, and the Respondent School was directed to reinstate the Petitioner. In this context, Rule 121 of the Delhi School Education Rules, 1973 governs



the payment of pay and allowances upon reinstatement and reads as under:

“121. Payment of pay and allowances on reinstatement

(1) When an employee who has been dismissed, removed or compulsorily retired from service is reinstated as a result of appeal or would have been so reinstated but for his retirement on superannuation while under suspension preceding the dismissal, removal or compulsory retirement, as the case may be, the managing committee shall consider and make a specified order:-

(a) with regard to the salary and allowances to be paid to the employee for the period of his absence from duty, including the period of suspension preceding his dismissal, removal or compulsory retirement, as the case may be; and

(b) whether or not the said period shall be treated as the period spent on duty.

(2) Where the managing committee is of opinion that the employee who had been dismissed, removed or compulsorily retired from service had been fully exonerated, the employee shall be paid the full salary and allowances to which he would have been entitled had he not been dismissed, removed or compulsorily retired from service or suspended prior to such dismissal, or compulsory retirement from service, as the case may be....”

9. A perusal of the record reveals that pursuant to the directions issued by the DST, the Petitioner submitted a representation to the Respondent School seeking payment of back wages. However, no order has been passed by the Respondent School on the said representation till date.

10. It is trite law that where termination of service is held to be illegal or wrongful, reinstatement with continuity of service ordinarily follows, and grant of back wages is the natural consequence thereof. The underlying principle is that an employee ought not to suffer pecuniary loss on account of an unlawful act of the employer, nor should the employer be permitted to derive any advantage from its own wrongdoing. While adjudicating a claim for back wages, the Court or the competent authority may exercise discretion having regard to factors such as the length of service, the nature of misconduct, if any, proved against the employee, the manner in which the



disciplinary proceedings were conducted, the conduct of the parties, and the overall facts and circumstances of the case. It is equally well settled that where the employer is found to have acted in gross violation of statutory provisions or the principles of natural justice, the Court would be justified in directing payment of full back wages, subject to the rider that the employee was not gainfully employed during the interregnum period.³

11. In the present case, the Petitioner's termination was set aside by the DST on account of non-compliance with Rules 118 and 120 of the Delhi School Education Act and Rules, 1973, including failure to constitute a disciplinary authority and non-adherence to the prescribed procedure for imposition of a major penalty. The Respondent School was expressly directed to decide the Petitioner's representation for payment of back wages by passing a speaking order. Despite the said direction, no decision has been taken by the Respondent School. The objection now sought to be raised by the Respondent School, questioning the legality of the termination, cannot be sustained, particularly as the order passed by the DST was never challenged, has attained finality, and was implemented by reinstating the Petitioner. Once the suspension and consequential termination stood set aside, the necessary consequence, in terms of the DST's directions and the settled legal position, is that the Petitioner is entitled to her emoluments for the interregnum period, subject to the Petitioner filing an affidavit affirming that she was not gainfully employed elsewhere during the said period. Therefore, the Court is inclined to grant the relief sought in Prayer (A).

12. Insofar as Prayer (B) is concerned, the Petitioner seeks a direction for refund of alleged deductions to the extent of 34% from her salary under the

³ Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya & Ors., 2013 SCC OnLine SC 719.



head “voluntary deduction”. The said assertion is disputed by the Respondent School. In the absence of any cogent material on record to substantiate that such deductions were in fact made, or that the same were involuntary, this Court finds no basis to grant the relief sought under Prayer (B).

13. As regards Prayer (C), whereby the Petitioner seeks a direction to enable her to collect her personal belongings from the Respondent School, it is noted that the Petitioner has admittedly resigned from service in the year 2018. Having regard to the considerable lapse of time of more than seven years, issuance of such a direction would neither be practicable nor appropriate, and accordingly, the relief sought under Prayer (C) is declined.

14. Accordingly, the petition is disposed of with the following directions:

14.1. The Petitioner shall file an affidavit before the Respondent School, within a period of ten days from today, disclosing whether she was gainfully employed during the period between 1st April, 2014 and 16th August, 2017, and if so, furnishing relevant particulars thereof.

14.2. Upon consideration of the Petitioner’s representation dated 5th August, 2017 along with the affidavit to be filed in terms of the above direction, the Respondent School shall release the emoluments payable to the Petitioner, in accordance with law, within a period of four weeks thereafter.

15. With the above directions, the petition is disposed of.

SANJEEV NARULA, J

JANUARY 14, 2026/nm/hc