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

+ **W.P.(C) 1356/2026, CM APPL. 6718/2026**

SMT. MAMATA SAMAJDAR

.....Petitioner

Through: Mr. Alope Kumar Bhattacharya and
Mr. Vivek Pandey, Advocates.

versus

HOLY CROSS SCHOOL & ORS.

.....Respondents

Through: *Appearance not given.*

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

04.02.2026

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1. The petition under Article 226 of the Constitution assails the order dated 8th October, 2025 passed by the Delhi School Tribunal in the Petitioner's appeal preferred under Section 15(3)(e)(iii) of the Delhi School Education Act, 1973 read with the Delhi School Education Rules, 1973. The appeal arose from the order dated 27th April, 2023 whereby the Respondent school terminated the Petitioner's engagement as Music Teacher.

2. The Petitioner also prays for directions to grant the Trained Graduate Teacher pay scale (TGT) after completion of one year, with arrears and consequential benefits, which the Petitioner claims ought to run from 1st April, 2017.

The Dispute

3. The Petitioner asserts that she was appointed as a Music Teacher with the Respondent School w.e.f. 1st April, 2016; the appointment was preceded



by an assurance that the probation would be for one year, after which the TGT pay scale would follow. No written contract or appointment letter was issued. The Petitioner states that the salary was initially paid in cash without pay slips; later, a cheque payment appears to have been made on 1st July, 2019. The Petitioner also complains of denial of leave benefits, humiliation at the workplace, and threats of termination by the Principal. On these assertions, the Petitioner claims that the termination order dated 27th April, 2023 was illegal and arbitrary.

4. The Respondent school contests the claim. It asserts that the Petitioner was not eligible under the applicable recruitment norms, including the age condition, and that the engagement was purely contractual, for a limited period, on a consolidated amount, extended on humanitarian considerations. It is also stated that the school is an unaided minority institution and the engagement was not a regular appointment against a sanctioned vacancy through the statutory recruitment route. Allegations of misconduct are pleaded, with reference to complaints by students and parents, and to show-cause notices and memos.

5. The Directorate of Education (DoE) has supported the stand that the Respondent is an unaided minority school and submits that the appointment was not made with DoE approval, nor was it processed as a regular recruitment in accordance with the statutory rules.

The Tribunal's determination

6. The Tribunal recorded the Respondent school's minority status on the basis of the certificate dated 20th July, 2006 issued by the National Commission for Minority Educational Institutions. It noticed the statutory setting under the Delhi School Education Act and Rules, including Section



15 which contemplates a written contract of service in unaided minority schools.

7. The Tribunal also examined the recruitment framework under Chapter XI of the Rules (Rules 127 and 128) governing recruitment in recognised unaided minority schools and noticed that even such schools are expected to recruit through the prescribed selection committee structure, with minimum qualifications not below the affiliating board norms.

8. On facts, the Tribunal recorded that the Petitioner admitted absence of an advertisement and selection process. It noticed the staff statements of the school reflecting the Petitioner's post as "Music (Contract)" with date of joining reflected as 1st July, 2019. It also noticed the Petitioner's acceptance of consolidated remuneration without regular service benefits, and the absence of any appointment letter or confirmation order.

9. Against that background, the Tribunal declined reinstatement and the claimed pay scale relief. While doing so, it directed payment of three months' salary as damages computed on last drawn wages and directed issuance of an experience certificate.

Submissions in the writ petition

10. The Petitioner contends that the Tribunal failed to consider that payment through cheque and continuity of service were incompatible with a short-term arrangement. It is urged that the Respondent school, even as a minority institution, cannot terminate services arbitrarily, and statutory protections of employees of recognised schools remain available. Reliance is placed on decisions including ***Frank Anthony Public School Employees***



*Association v. Union of India*¹; *Management Committee of Montfort Senior Secondary School v. Vijay Kumar*²; and the Delhi High Court decision in *Army Public School & Anr. v. Narendra Singh Nain & Ors.*,³ to submit that the nature of employment in schools is statutory, and termination must comply with disciplinary procedure where the termination is founded on alleged misconduct.

11. On consideration of the submissions advanced by the Petitioner's counsel and the record, following issues arise for determination:

- i. What is the permissible scope of interference under Article 226 with the Tribunal's order?
- ii. Whether the Petitioner established a legal right to be treated as a regular employee entitled to TGT pay scale and consequential benefits?
- iii. Whether the termination order dated 27th April, 2023 warrants interference on the ground of breach of statutory procedure or principles of natural justice?
- iv. Whether the limited damages granted by the Tribunal call for enhancement or modification?

Analysis

Scope under Article 226

12. A writ court does not sit as a second appellate forum over the Tribunal's factual evaluation. Interference is warranted where the decision suffers from an error of law apparent on the face of the record, perversity, disregard of mandatory statutory provisions, or failure of natural justice that materially affects the outcome.

¹ (1986) 4 SCC 707

² (2005) 7 SCC 472



13. Measured against this threshold, the petition invites a re-appreciation of facts relating to the manner of engagement, eligibility, and the nature of appointment. The question is whether the Tribunal's approach is legally unsustainable. If it is not, the writ court will not substitute a different view only because an alternative reading is possible.

Whether the Petitioner established a legal right to TGT pay scale and regular service benefits

14. The Petitioner's case hinges on an asserted assurance of one-year probation followed by TGT pay scale. However, the Petitioner does not place on record an appointment letter, a written contract, terms of employment, a confirmation order, or any document showing appointment against a regular vacancy through the recruitment process. In contrast, the record noticed by the Tribunal, including the school's staff statements submitted under the statutory regime, reflects the post as "Music (Contract)". The Petitioner's own pleaded case refers to payment on consolidated basis and absence of service benefits, including leave, provident fund, gratuity, or pay slips.

15. Even for unaided minority schools, the statutory rules prescribe a recruitment structure (Rule 127) and minimum qualifications (Rule 128). The Petitioner admits absence of advertisement and selection. That admission is not a minor irregularity. It goes to the root of the claim that the engagement was a regular statutory appointment carrying an enforceable right to pay scale parity.

16. A *mandamus* is issued to enforce a legal right and a corresponding public duty. In service matters, the right must be traceable to statute, rules,

³ W.P.(C) 1439/2013 decided on 30th August, 2013



or a valid appointment under the governing framework. Where the appointment itself is not shown to be made in accordance with the recruitment scheme, the claim to regular scale and consequential benefits does not mature into an enforceable right.

17. The Petitioner's reliance on the notion of "probation" also does not advance the case. Probation and confirmation presuppose a valid initial appointment to a post under the governing rules. The Supreme Court has held that continuation beyond the probation period does not, by itself, amount to deemed confirmation, and confirmation requires an order by the competent authority.⁴

18. Further, decisions of this Court have clarified that Rule 105 dealing with probation is structured around regular appointments under the recruitment regime, and it does not convert a contractual engagement dehors Rule 96 into a statutory probationary appointment merely because the employee continued.⁵

19. The Petitioner's claim for TGT scale from 1st April, 2017 is, therefore, not founded in any demonstrable appointment to a TGT post or a lawful recruitment to such post. The Tribunal's refusal to grant that relief is consistent with first principles governing writ remedies.

Termination, minority status, and statutory protections

20. There is no dispute that the Respondent school is a recognised institution. The Tribunal has recorded minority status on the basis of the statutory certificate. Minority status protects autonomy in administration, yet it does not create a licence for maladministration. The law seeks a balance

⁴ *Durgabai Deshmukh Memorial Senior Secondary School v. J.A.J. Vasu Sena*, (2019) 17 SCC 157

⁵ *Ravi Negi v. Balvantray Mehta Vidya Bhawan Anguridevi Shersingh Memorial Academy*, 2021 SCC



between institutional autonomy under Article 30(1) and regulatory provisions designed to prevent unfair treatment of employees.

21. The Petitioner relies on *Montfort Senior Secondary School* to submit that the nature of school employment is statutory and not purely contractual. That proposition is sound in its context. Even so, the relief in a writ petition still depends on the employee establishing a lawful entry and a legal right.

22. Courts have repeatedly held that where the appointment is in contravention of statutory recruitment rules, the court will not grant a mandamus for continuation or reinstatement merely on sympathetic considerations.⁶ A recognised school cannot be compelled to perpetuate an engagement that is shown to be dehors the governing recruitment norms.

23. The Petitioner also urges that termination founded on misconduct attracts disciplinary procedure. In the abstract, that is correct for a regular statutory employee. However, the Tribunal has evaluated the case on the footing that the Petitioner's engagement itself was contractual and not shown to be a regular statutory appointment through the recruitment route. It is in those circumstances that the Tribunal declined reinstatement.

24. Even if one assumes, for argument, that the school ought to have followed a disciplinary procedure, the nature of relief still remains bound by the foundational infirmity. A writ court does not ordinarily direct reinstatement into a post where the employee has not demonstrated eligibility and lawful appointment to that post.

25. The decisions cited by the Petitioner, including this Court's decisions dealing with sham contracts in non-minority schools, proceed on their own

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⁶ See: *Secretary, State of Karnataka v. Umadevi*, (2006) 4 SCC 1



facts. Those cases turn on whether contractual appointments were used as an artifice to evade the statutory recruitment regime where regular appointments were legally required. The Petitioner in the present case has not placed any material to show that the post was a regular sanctioned vacancy filled through a statutory recruitment exercise in which the Petitioner was lawfully selected.

26. The argument that age was known at the time of engagement, therefore termination on age is arbitrary, also does not cure the defect. There is no estoppel against statute. Knowledge of a defect by an employer does not create a legal right in an appointee where the governing eligibility norms are not satisfied and the appointment is outside the prescribed recruitment path.

Conclusion

27. The impugned order dated 8th October, 2025 does not suffer from perversity or a legal infirmity on the grounds urged, warranting interference under Article 226. The Petitioner has failed to establish a legal right to reinstatement, to TGT pay scale, or to consequential service benefits in the manner claimed.

28. The writ petition is dismissed. Pending applications, if any, stand disposed of.

SANJEEV NARULA, J

FEBRUARY 4, 2026/nk