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

+ W.P.(C) 6779/2016 & CM APPL. 27871/2016

QUEEN MARYS SCHOOL & ANR.

.....Petitioners

Through:

versus

ASHISH SAMUEL & ANR

.....Respondents

Through: Mr. Om Prakash Mishra, Advocate
for R-1.

Mr. Yeeshu Jain, ASC with Ms. Jyoti
Tyagi, Ms. Vishruti Pandey and Mr.
Sachin Garg, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **24.03.2026**

1. This petition assails the judgment dated 03rd June, 2016 passed by the Delhi School Tribunal in Appeal No. 44/2012, whereby the Tribunal set aside the acceptance of the resignation of Respondent No. 1 and directed his reinstatement. It is the Petitioners' case that Respondent No. 1 had resigned on 30th May, 2012 and stood relieved on 30th June, 2012, and that the Tribunal erred in its findings on the nature of the resignation, limitation, and the interpretation of Rule 114A of the Delhi School Education Rules, 1973.

The Controversy

2. Respondent No. 1 was appointed as a Music Teacher in the Petitioner school with effect from 01st April, 2005 and his services came to be confirmed on 28th August, 2008. There is no dispute that he continued in



service thereafter. According to the Petitioners, he submitted a handwritten resignation on 30th May, 2012 requesting that it be accepted after one month, and was accordingly relieved with effect from 30th June, 2012. The Petitioners further say that the resignation was never withdrawn and later stood accepted by the Managing Committee as well.

3. Respondent No. 1 contests that account on several aspects. His case is that he resumed duty after the summer vacation on 23rd June, 2012. During the heat closure from 02nd July, 2012 to 08th July, 2012, he received a memo dated 04th July, 2012 calling upon him to report for duty on 05th July, 2012, failing which his services would be terminated. He asserts that he met the Principal on 06th July, 2012 and again attended the school on 09th July, 2012. He was then forced, under threat, to sign papers and write out a resignation, though the document was made to bear the earlier date of 30th May, 2012. He further alleges that on 10th July, 2012 he was stopped at the school gate and was not allowed to rejoin thereafter.

4. The record also shows that the dispute did not remain dormant thereafter. Respondent No. 1 claims to have addressed representations to the school and other authorities in July, August and September 2012 seeking permission to resume duty and complaining that the resignation relied upon by the school was not voluntary. On 08th October, 2012, the school wrote to him stating that he had voluntarily tendered resignation on 30th May, 2012 and that it stood accepted. Respondent No. 1 thereafter instituted Appeal No. 44/2012 before the Delhi School Tribunal on 06th November, 2012 under Section 8(3) of the Delhi School Education Act, 1973.

5. By the impugned judgment dated 03rd June, 2016, the Tribunal accepted the employee's challenge, held against the Petitioners on the issue



of voluntariness and validity of the alleged resignation, and directed reinstatement. Aggrieved thereby, the present writ petition has been filed.

Petitioner's submissions

6. Counsel for the Petitioners assails the impugned order on the premise that the Tribunal accepted a story which, was inherently improbable and belatedly introduced. Even on the employee's own showing, the alleged coercion is said to have occurred on 09th July, 2012, yet no such allegation was raised at the earliest opportunity and was introduced only subsequently as an afterthought. Respondent No. 1, was at all times aware of the resignation dated 30th May, 2012, had himself annexed it with the appeal, and neither withdrew nor sought to set it aside in any legally recognised manner. The Tribunal, therefore, erred in disregarding a resignation which was never directly challenged.

7. The appeal before the Tribunal was not maintainable. The Tribunal, exercising jurisdiction under Section 8(3) of the Delhi School Education Act, 1973, could entertain only a challenge to an order of dismissal, removal or reduction in rank. In the present case, no such order was impugned, nor was there any specific challenge to the resignation dated 30th May, 2012. Reliance, in this regard, is placed on ***Radhey Shyam Sharma v. The Managing Committee, Mahasya Chunni Lal Saraswati Bal Mandir***.¹ Even on the employee's own case, he was denied entry on 10th July, 2012; reckoned from that date, the appeal filed on 06th November, 2012 was beyond limitation. The letter dated 08th October 2012, it is urged, did not give rise to any fresh cause of action.

¹ In W.P.(C) No. 3245/2011, decided on 13th May, 2011.



8. On merits, it is submitted that the resignation dated 30th May, 2012 was voluntary. It was written in the employee's own hand, tendered with notice, accepted, and he was relieved with effect from 30th June, 2012. The resignation was never withdrawn. Reliance is also placed on the fact that the employee obtained no-dues clearances and settled his accounts, which, according to the Petitioners, is inconsistent with any case of coercion. The subsequent allegations of threats, blank papers and backdating are denied as unsupported and contradictory.

9. The Tribunal erred in its interpretation of Rule 114A of the Delhi School Education Rules, 1973. The Rule does not render a resignation ineffective merely because formal approval is not recorded within a stipulated period. It is contended that the resignation stood accepted, and in any event, the approval granted by the Managing Committee on 09th August, 2012 constituted a valid acceptance. It is further urged that the said meeting was attended by two nominees of the Directorate of Education, which satisfies the requirement of approval under the statutory scheme. In this regard, reliance is placed on the decision in *The Managing Committee of Rani Dutta Arya Vidyalaya & Anr. v. Delhi School Tribunal & Ors.*,² to contend that once a resignation is accepted and the statutory framework is complied with, the same attains finality and cannot be lightly disregarded.

10. The memo dated 04th July, 2012 has been wrongly relied upon. The same was an inadvertent communication issued after Respondent No. 1 had already resigned and stood relieved with effect from 30th June, 2012, and cannot detract from the validity of the resignation. The Petitioners deny that the employee attended the school thereafter or was wrongfully prevented



from doing so.

11. The Petitioners further rely on the surrounding circumstances, including communications from the police at Kanpur, to submit that the resignation was voluntary and motivated by the employee's personal situation. It is also contended that, in view of the nature of the allegations against him, a girls' school with predominantly female staff could not reasonably be expected to continue his employment. The plea of coercion is therefore denied as false and an attempt to re-enter service after having resigned.

Submissions on behalf of Respondent No. 1

12. Counsel for Respondent No. 1 supports the impugned order and submits that the Petitioners' case is internally inconsistent. It is pointed out that Respondent No. 1 resumed duties after the summer vacation and was issued a memo dated 04th July, 2012 directing him to report for duty on 05th July 2012, failing which his services would be terminated. This is wholly inconsistent with the stand that he had already resigned on 30th May, 2012 and stood relieved on 30th June, 2012.

13. Developing the chronology, it is submitted that Respondent No. 1 met the Principal on 06th July, 2012. On 09th July, 2012, he attended the school, marked his attendance, and was then forced under threat, including of arrest, to write out a resignation which was backdated to 30th May, 2012. He was thereafter denied entry from 10th July 2012. The case is that the resignation was not voluntary but procured under coercion and subsequently backdated.

14. The plea of coercion was not an afterthought, as the Petitioners now suggest. Respondent No. 1 raised his grievance from July, 2012 onwards

² In W.P.(C) No. 20218-19/2004, decided on 11th January, 2017.



through representations to the school and authorities, seeking to resume duty. Reliance is placed on the continuing correspondence culminating in the letter dated 08th October, 2012, by which the school for the first time asserted that the resignation stood accepted. The appeal filed thereafter is stated to be within limitation.

15. On limitation and maintainability, it is submitted that the cause of action cannot be confined to 10th July, 2012 when entry was denied, but must be read in light of the subsequent correspondence and the school's final stand communicated on 08th October, 2012. The absence of a formal termination order does not assist the Petitioners, as the grievance is precisely that Respondent No. 1 was unlawfully kept out of service under the guise of a resignation which he consistently disputed.

16. Petitioners' emphasis on non-withdrawal of the resignation is also disputed. Respondent No. 1 has consistently denied having voluntarily tendered any resignation and has asserted that the document was obtained by coercion and fraud. In such circumstances the question of formally withdrawing the resignation does not arise.

17. On Rule 114A, it is submitted that the Petitioners' reliance on acceptance is misconceived. There was no valid or voluntary resignation in the first place, the document having been obtained under coercion and backdated. The statutory requirement of approval was not complied with, as the resignation was neither shown to have been forwarded within the prescribed period nor approved by the Directorate of Education. Reliance is placed on the Managing Committee resolution dated 09th August, 2012, which records acceptance of the resignation with effect from 30th June, 2012 subject to approval of the Directorate of Education, to contend that even on



the school's own showing the matter had not attained finality.

18. The explanation that the memo dated 04th July, 2012 was inadvertent is disputed. In fact, the memo, coupled with the employee's continued attendance till 09th July, 2012, is crucial in demonstrating that the employment relationship had not ended. The Petitioners are also stated to have withheld the attendance records which would have corroborated this position.

19. As regards the reliance on police notices and personal allegations, it is submitted that such matters are irrelevant to the validity of the resignation. These allegations were used as a means of exerting pressure, and in any event do not establish that the resignation was voluntary.

Submissions on behalf of Respondent No. 2

20. On behalf of the Directorate of Education, it is submitted that the Petitioner school is a recognised unaided private school and is, therefore, governed by the Delhi School Education Act and Rules. At the same time, the Directorate states that the present dispute is essentially between the school and Respondent No. 1. The short affidavit also refers to the position emerging from ***Raj Kumar v. DoE & Ors.***³ and the departmental order dated 20th May, 2016 requiring compliance with Section 8(2) and the connected rules in the wake of that judgment. Broadly speaking, the Directorate does not seek to independently justify the school's action on facts and leaves the primary contest to be resolved between the employer and the employee.

Discussion and reasons

21. The controversy in the present writ petition turns on three questions. First, whether the appeal before the Tribunal was liable to be rejected on the



grounds of maintainability or limitation. Second, whether the Petitioners have been able to establish that Respondent No. 1 voluntarily resigned from service and stood validly relieved with effect from 30th June, 2012. Third, whether Rule 114A of the Delhi School Education Rules, 1973, read with the later resolution of the Managing Committee, is sufficient to cure the evident defects in the Petitioners' case.

22. At the outset, this Court addresses the issue of maintainability. The Petitioners raises a preliminary objection to the jurisdiction of the Delhi School Tribunal. The Petitioners contends that Section 8(3) of the Delhi School Education Act, 1973 only permits appeals against orders of "dismissal, removal or reduction in rank." It is argued that a "resignation" does not fall within these categories and, therefore, the Tribunal had no authority to entertain the matter. Reliance is placed on **Radhey Shyam Sharma** to support this restrictive view.

23. The objection cannot be accepted. The scope of Section 8(3) has been settled by the Supreme Court in **Shashi Gaur v. NCT of Delhi & Ors.**⁴ In that case, the Court held that Section 8(3) provides a remedy not only against major penalties in disciplinary proceedings but also against "termination otherwise," except where service ends by a natural efflux of time. The Supreme Court explicitly cautioned against a narrow construction of this provision, noting that the Tribunal was established to protect teachers from being taken out of service by the whims of private management.

³ (2016) 6 SCC 541.

⁴ (2001) 10 SCC 445.



24. This principle has been applied by this Court in ***Daya Nand Adarsh Vidyalaya v. Deepa Chibber***⁵ specifically in the context of a disputed resignation relied upon by the management. The Court clarified that where an employee asserts that she has been unlawfully kept out of service, and the management seeks to justify its action on the basis of an alleged resignation, the Tribunal has jurisdiction to examine whether such resignation was in fact voluntary and valid. The form in which the management characterizes its action does not determine jurisdiction. The Court also considered the reliance placed on ***Radhey Shyam Sharma*** by the school and held that the said decision merely narrated the facts of an earlier proceeding and did not lay down any principle that the Tribunal lacks jurisdiction to examine whether a resignation was forced.

25. In the present case, Respondent No. 1 has consistently asserted that he was unlawfully kept out of service under the guise of a back-dated, involuntary resignation. Following the ratio in ***Shashi Gaur***, such a dispute squarely falls within the Tribunal's jurisdiction to adjudicate whether the cessation of service was, in substance, an illegal removal. The objection to maintainability is therefore rejected.

26. With the question of maintainability thus resolved, the Court turns to the issue whether Respondent No. 1 voluntarily resigned from service. The Petitioners' case is that Respondent No. 1 voluntarily tendered a handwritten resignation dated 30th May, 2012, that it was accepted at his request, and that he stood relieved with effect from 30th June, 2012. The subsequent challenge, according to them, is an afterthought. They rely on the absence of any withdrawal of resignation, explain the memo dated 04th July, 2012 as an

⁵ In W.P.(C) No. 1009/2012, decided on 19th September, 2013.



‘inadvertent act’, and contend that the later approval by the Managing Committee, attended by departmental nominees, cured any defect.

27. The difficulty for the Petitioners is that this position is not borne out consistently by the record. Respondent No. 1’s appeal before the Tribunal sets out a chronology which is at variance with the Petitioners’ case: he resumed duty on 23rd June, 2012; during the heat closure he received the memo dated 04th July, 2012 directing him to report on 05th July, 2012; he attended on 06th July, 2012 and again on 09th July, 2012; and on 10th July, 2012 he was stopped at the school gate. He continued to send representations through July, August and September 2012, and it was only on 08th October, 2012 that the school communicated in writing that he had voluntarily resigned on 30th May, 2012.

28. The inconsistency in the Petitioners’ case emerges from their own pleadings. While asserting that Respondent No. 1 had resigned of his own accord and stood relieved with effect from 30th June, 2012, the Petitioners were also required to explain the memo dated 04th July, 2012. They do not deny the issuance of the said memo, but attempt to minimize its significance by characterizing it as an “inadvertent act”. In the opinion of the Court, a direction calling upon an employee to report for duty, failing which his services would be terminated, sits uneasily with the argument that the employment had already come to an end.

29. Nor does the record stop there. The school’s own record shows that the issue of resignation was still being processed even after 30th May, 2012. The internal note dated 03rd July, 2012 and, later, the resolution of the Managing Committee dated 09th August, 2012 do not reflect a case of a clean and completed severance already brought about earlier. The resolution,



in particular, records that the resignation with effect from 30th June, 2012 was accepted 'subject to the approval of the Directorate of Education' and authorises the Principal to file the relevant papers with the Directorate. A record framed in those terms does not advance the Petitioners' plea that the matter had already become final, unconditional and legally closed at an earlier stage. The later resolution is, therefore, not a clean answer. It forms part of the same uneven documentary trail.

30. Viewed cumulatively, the Petitioners' case does not present a consistent documentary narrative. On the one hand, it is asserted that the resignation stood concluded with effect from 30th June, 2012; on the other, the memo dated 04th July, 2012 is treated as inconsequential, and reliance is placed on subsequent approvals to sustain the position. These are not merely alternative formulations but reflect uncertainty in the Petitioners' own record as to when and on what basis the severance of service became complete. In writ jurisdiction, the question is not whether another view is possible, but whether the Tribunal's conclusion is untenable. On the material before it, it cannot be said to be so.

31. That brings the Court to Rule 114A and the reliance placed by the Petitioners on *The Managing Committee of Rani Dutta Arya Vidyalaya*. The Petitioners are right to the limited extent that Rule 114A does not permit a school to indefinitely withhold acceptance of a genuine resignation. The decision in *Rani Dutta* explains that Rule 114A uses mandatory language and that, if there is no refusal by the Director within thirty days, resignation may attain finality on expiry of that period. It also recognises the distinction between acceptance of resignation and actual relieving under Rule 96(9). However, that decision equally makes clear why approval by the Director



matters in cases where the resignation may not be genuine or may have been forced upon the employee. In other words, **Rani Dutta** assists the Petitioners only if the foundational fact of a genuine resignation is first established. It does not compel the Court to treat every disputed resignation as final merely because thirty days have passed.

32. Read in that light, Rule 114A does not advance the Petitioners' case. This is not a case where an admitted resignation was later sought to be retracted after the statutory period. This is a case where the employee's stand from the beginning has been that the document relied on by the management was procured under coercion and backdated, and where the management's own subsequent conduct does not fit neatly with the theory of a completed severance on 30th June, 2012. The Petitioners' emphasis on deemed approval therefore misses the real point. Deeming cannot supply factual coherence where the surrounding record itself casts doubt on whether the resignation was voluntary and legally complete in the first place.

33. The submission that Respondent No. 1 neither withdrew the resignation nor specifically challenged it is of little assistance. Such an argument may carry weight where the employee admits having voluntarily resigned and later seeks to retract. It carries far less force where the challenge goes to the very character of the document and the manner in which it came into existence. If the employee asserts that the document was not a free and valid act of resignation, the absence of a formal withdrawal or a specifically framed challenge cannot, by itself, validate it. The substance of the grievance, namely that he was unlawfully kept out of service under cover of an involuntary resignation, was consistently urged before the Tribunal.



34. The plea that the allegation of coercion is an afterthought also does not merit acceptance. The record shows that the employee had been raising grievances from July 2012 onwards and continued to assert that he had been wrongfully kept out of service. The Tribunal was therefore justified in treating the matter as a continuing dispute rather than a belated fabrication.

35. On limitation, this Court finds no reason to interfere with the Tribunal's conclusion. The employee's grievance may be traced to his exclusion from duty on 10th July, 2012. Yet, that was not the end of the matter. The record shows continued correspondence, repeated assertions by the employee that he be permitted to rejoin, and, ultimately, the school's letter dated 08th October, 2012 setting out in writing its stand that he had voluntarily resigned and that the management had accepted the same. The appeal was filed on 06th November, 2012. In these circumstances, the Tribunal was justified in viewing the letter dated 08th October, 2012 as the point at which the dispute took a definitive shape. The objection on limitation cannot, therefore, be accepted as one that ought to have non-suited the employee at the outset.

36. In view of the foregoing, no ground for interference under Article 226 of the Constitution of India is made out. The writ petition is accordingly dismissed, along with pending application(s). The interim order dated 31st August, 2016, whereby the operation of the impugned order was stayed, stands vacated.

SANJEEV NARULA, J

MARCH 24, 2026/hc