



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

% *Judgment Reserved on: 19<sup>th</sup> February, 2026*  
*Judgment pronounced on: 12<sup>th</sup> March, 2026*

+ **RFA 701/2018**

SANGITA MALLIK

.....Appellant

Through: Mr. Pankaj Gupta, Mrs. Rimpay Gupta  
and Mr. Ram Pawar, Advocates.

versus

GANDHI SMARAK

SANGRAHALAYA SAMITI & ANR.

.....Respondents

Through: Mr. Rahul Shukla and Mr. Bachita  
Baruah Shukla, Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE AMIT BANSAL**

### **JUDGMENT**

#### **AMIT BANSAL, J.**

1. The present appeal has been filed seeking modification of judgment and decree dated 21<sup>st</sup> April, 2018 passed ADJ-04 (Central), Tis Hazari Courts Delhi ('**Trial Court**') in CS No. 614393/2016 titled as '*Sangita Mallik v. Gandhi Smarak Sangrahalaya Samiti and Another*' ('**impugned judgment**').

2. In terms of the impugned judgment, the suit filed by the appellant/plaintiff was decreed for a sum of Rs. 90,000/- along with interest at the rate of 9% per annum from the date of filing of the suit.

#### **BRIEF FACTS**

3. The appellant was appointed as a Director of respondent no. 2 and *ex-officio* member secretary of respondent no. 1 on 19<sup>th</sup> September, 2010 for a



fixed term of five years. An honorarium of Rs. 30,000/- per month was to be paid to the appellant as per the terms of the engagement. Prior to her selection, the appellant was working as Deputy Director in Rajender Bhawan Trust. At the time of her appointment, the appellant was around 57 years of age.

4. The appellant joined as a Director on 21<sup>st</sup> September, 2010. The appellant worked at the said post from 21<sup>st</sup> September, 2010 till 13<sup>th</sup> January, 2013.

5. The appellant, who was suffering from a brain tumour had to undergo an emergency surgery on 31<sup>st</sup> January, 2013. The surgery resulted in certain complications and the appellant was hospitalised. On 18<sup>th</sup> February, 2013 the appellant applied for three months' medical leave from 1<sup>st</sup> February, 2013 to 30<sup>th</sup> April, 2013. The same was sanctioned *vide* letter dated 5<sup>th</sup> March, 2013 subject to the appellant receiving 50% of the 'honorarium'.

6. Since the medical treatment of the appellant continued, the appellant was advised bed rest. Accordingly, the appellant applied for extension of her medical leave from May, 2013 to July, 2013, which was acceded to by the respondents *vide* letter dated 1<sup>st</sup> May, 2013, without any honorarium.

7. On 10<sup>th</sup> July, 2013, the appellant applied for further extension of her medical leave from August, 2013 till October, 2013.

8. The request of the appellant for further extension of medical leave was declined by the respondents *vide* letter dated 1<sup>st</sup> August, 2013 and the appellant was relieved from her duties as Director.

9. On 24<sup>th</sup> September, 2013, the appellant filed a suit before the Trial Court seeking a declaration that the termination letter dated 1<sup>st</sup> August, 2013



was illegal and arbitrary and also sought a sum of Rs.12,50,000/- towards damages and compensation.

10. Summons in the suit were issued on 23<sup>rd</sup> October, 2013. The respondents contested the suit by filing a written statement. Evidence in the suit was recorded from 17<sup>th</sup> March, 2015 to 15<sup>th</sup> March, 2017.

### **FINDINGS OF THE TRIAL COURT**

11. The Trial Court held that respondent/defendant is a registered society under the Societies Registration Act, 1860 and not a statutory body. Therefore, the employment of the plaintiff would be governed by the terms of her appointment letter. Hence, Article 311 of the Constitution of India would not be applicable in the present case.

12. The Trial Court also noted that in terms of Rule 8 of the 'Rules and Regulations of Gandhi Smarak Sangrahalaya Samiti, Gandhi Memorial Museum Society' (**'Rules and Regulations'**), the appointing authority in respect of the appellant was the Chairman of respondent no. 2 and the Chairman had relieved the appellant-plaintiff from her duties as a Director *vide* communication dated 1<sup>st</sup> August, 2013.

13. As regards the submission of the appellant that the employment of the appellant was for a period of five years, which could not be terminated earlier, the Trial Court has placed reliance on the judgment of the Division Bench of this Court in *Shriram Pistons and Rings Ltd. and Anr. v. T.S. Mokha*<sup>1</sup> (**'Shriram Pistons'**), to the effect that even if there is a wrongful

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<sup>1</sup> RFA (OS) No. 3/1999.



repudiation of the contract of employment by the employer, the employee can only claim damages in lieu of the notice period.

14. The Trial Court has also held that in the absence of a written contract, the engagement of the appellant would be governed by the Memorandum of Association and the Rules framed thereunder. In terms of Rule X(2) of the 'Service Rules, Gandhi Smarak Sangrahalaya Samiti' ('**Service Rules**'), any employee could be terminated by giving a three (3) months' notice. Accordingly, the Trial Court awarded damages for a period of three (3) months from the date of termination of employment, amounting to Rs. 90,000/- along with interest at rate of 9% per annum.

15. Aggrieved by the aforesaid judgment, the present appeal has been filed.

#### **SUBMISSIONS ON BEHALF OF THE PARTIES**

16. Mr. Pankaj Gupta, counsel for the appellant has made the following submissions:-

- i. Since the appointment of the appellant was for a fixed term of 5 years and there was no stipulation for prior termination, the termination of the appellant *vide* letter dated 1<sup>st</sup> August, 2013 was illegal. Hence, the appellant is entitled for compensation for the remaining period of her engagement. In this regard reliance is placed on the judgment of the Division Bench of this Court in ***India International Centre v. SN Pandit***<sup>2</sup> ('***India International Centre***').

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<sup>2</sup> RFA No. 93-D/1965.



- ii. Since the engagement of appellant was in the nature of post-retiral engagement, the general principle of mitigation of loss would not be applicable.
- iii. The leave of the appellant had already been sanctioned till 15<sup>th</sup> September, 2013 by the then Chairman on 17<sup>th</sup> July, 2013. Therefore, the termination of the engagement during the subsistence of the said period is bad in law.

17. Mr. Rahul Shukla, counsel appearing for the respondents has made the following submissions:-

- i. The appointing authority in respect of the appellant was the Chairman and the relieving letter has also been issued by the Chairman.
- ii. The Trial Court in the impugned judgment and decree has correctly applied the Service Rules in terms of which the respondent-society is required to give three months' notice to the appellant before terminating her services. Accordingly, the Trial Court has awarded compensation to the appellant in lieu of three months' notice period, which has been accepted by the respondents.
- iii. It is wrong to content that a fixed-term employment cannot be terminated earlier. If sufficient cause is shown, the aforesaid employment can be terminated and the said termination would not be unlawful.

#### **ANALYSIS AND FINDINGS**

18. I have heard counsel for the parties and examined the material placed on record.

19. It is an undisputed fact that the employment of the appellant was in the nature of a private employment. The appellant worked at the said



position from 21<sup>st</sup> September, 2010 till 13<sup>th</sup> January, 2013. Thereafter, the appellant had to take medical leave on account of health issues faced by her. Initially, medical leave was sought and granted for a period of three months from February, 2013 to April, 2013 with 50% of the honorarium and subsequently for a period of another three months from May, 2013 to July, 2013, without any honorarium.

20. In the meeting of the Governing Body held on 18<sup>th</sup> May, 2013 (Exhibit DW-1/5), it was noted that the medical certificate submitted by the appellant for extension of medical leave was inadequate and the Governing Body requested the Chairman to ask the appellant to submit her resignation. In the Meeting of the Governing Body dated 26<sup>th</sup> July, 2013, the decision of the Chairman to extend the appellant's leave till 31<sup>st</sup> July, 2013 was accepted. However, it was made clear by the respondents that any further extension of leave beyond 31<sup>st</sup> July, 2013 shall not be approved. Relevant extracts from the Minutes of Meeting dated 26<sup>th</sup> July, 2013 (Exhibit DW-1/6) are set out below:

“(b) Resolution No. 7 – Decision (a) – Regarding Smt. Sangita Mallik’s Resignation:

***The Chairman, Prof. Bimal Prasad, informed the Governing Body that Smt. Sangita Mallik is not ready to resign from the Directorship of the National Gandhi Museum. She has asked for another three months leave on medical ground. Thus, it was clear that she is not going to join her duty on 1.8.2013.***

*Governing Body members discussed this issue in detail. The members were firmly of the view, considering all details about her performance, her health, and her absence from the duty because of her ill-health, that it is not possible to allow her to continue as the Director of the National Gandhi Museum now. At this point, Chairman, Prof. Bimal Prasad intervened and suggested that Rs. 1 Lac should be given to her as*



*medical expenses assistance. He also assured that he will persuade her to resign from the Directorship and it hoped she will resign. Members of Governing Body after considering the proposal decided that after receiving the resignation letter from Smt. Sangita Mallik, Rs. 1 Lac will be given to her on a compassionate ground.*

***In any case, if she does not resign, the Chairman, National Gandhi Museum, has been authorised by the Governing Body to relieve her from the responsibilities of the Director of the National Gandhi Museum.”***

[emphasis supplied]

21. Since the appellant did not submit her resignation, the Chairman terminated her engagement *vide* letter dated 1<sup>st</sup> August, 2013 (Exhibit PW-1/9).
22. In my considered view, there is no infirmity in the decision of the respondents to not extend the appellant's medical leave beyond 31<sup>st</sup> July, 2013. It is a matter of record that the appellant had been taking medical leaves since January, 2013. Earlier, the medical leave was granted from 1<sup>st</sup> February, 2013 to 30<sup>th</sup> April, 2013 and subsequently from May, 2013 to July, 2013. It has to be borne in mind that the appellant was holding the post of a Director and her prolonged absence would have affected the functioning of the respondent-society. Since the contract was for a fixed term of 5 years, the respondents could not be reasonably expected to continue sanctioning medical leave to the appellant.
23. Even in terms of Rule VI(10) of the Service Rules, an employee is only entitled to a maximum 90 days' medical leave in case of a serious illness, upon production of a certificate from a medical practitioner. Clearly, the appellant had exceeded this limit.
24. The reliance placed by the appellant on Rule VI(15A) of the Service



Rules to submit that an employee can be granted a leave up to a continuous period of three (3) years is also completely misplaced. No employee can, as a matter of right claim leave for a period of three (3) years. The appellant, who was employed for a fixed term of five (5) years, surely cannot be entitled to claim leave for three (3) years.

25. I am unable to accept the submission of the appellant that a fixed term employment cannot be terminated by the employer. Even in the judgment of *India International Centre* (supra) relied upon by the appellant, it has been held that a fixed duration contract can be terminated prior to the expiry of duration on just causes.

26. In the present case, as noted above, sufficient justification has been provided by the respondents for terminating the contract of the appellant.

27. The appellant has contended that her leave was extended by the Chairman till 15<sup>th</sup> September, 2013. Reliance has been placed on the endorsement of the Chairman in her leave application dated 10<sup>th</sup> July, 2013 (Exhibit PW-1/7). However, the said plea was not taken by the appellant before the Trial Court and hence has not been considered in the impugned judgment. The said plea has been raised for the first time in the present appeal. In any event, in light of the resolution passed by the respondents on 26<sup>th</sup> July, 2013 (Exhibit DW-1/6), the said endorsement holds no relevance.

28. In *Shriram Pistons* (supra), it has been held that even if the termination of employment is wrongful, damages that can be awarded are limited to the notice-period pay/salary and the employee cannot claim damages till retirement. Accordingly, the Trial Court has rightly awarded damages of Rs. 90,000/- to the appellant in lieu of the three months' notice



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period which was required to be given in terms of Rule X(2) of Service Rules.

29. In view of the discussion above, this Court finds no infirmity in the judgment and decree passed by the Trial Court.

30. There is no merit in the present appeal and the same is dismissed.

**AMIT BANSAL  
(JUDGE)**

**MARCH 12, 2026**

*at*