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**DELHI SCHOOL TRIBUNAL**  
PATRACHAR VIDYALAYA COMPLEX  
LUCKNOW ROAD, TIMARPUR, DELHI- 110 054

**Appeal No. 41/2012**

**IN THE MATTER OF:**

1. SMT. SADHNA PAYAL  
W/O. SH. AJAY KUMAR PAYAL  
R/O. B-6/101, SAFDARJUNG ENCLAVE,  
NEW DELHI-110029

THROUGH : SH.ANUJ AGGARWAL, ADVOCATE

**APPELLANT**

VERSUS

1. RUKMANI DEVI JAIPURIA PUBLIC SCHOOL  
23, RAJPUR ROAD, CIVIL LINES,  
DELHI-110054  
THROUGH : DR. M. Y. KHAN, ADVOCATE

2. THE DIRECTORATE OF EDUCATION  
OLD SECRETARIAT, DELHI-110054  
THROUGH ITS DIRECTOR/ DY. DIRECTOR  
NEMO

3. SETH BENI PERSHAD JAIPURAI  
CHARITABLE TRUST  
52, JANPATH, NEW DELHI.

**RESPONDENTS**

**APPEAL UNDER SECTION 8 (3) OF THE DELHI SCHOOL  
EDUCATION ACT, 1973.**

**Dated: 19.04.2016**

1. The facts of the case in brief as submitted in the appeal by the Appellant are that the Appellant was appointed as Asstt. Teacher in Rukmani Devi Jaipuria Public School, 23, Rajpur Road, Civil Lines, Delhi-110054



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(hereinafter referred to as the Respondent School) on 09.07.1980. She was promoted to the post of TGT (English) on 01.04.1984 and again promoted to the post of PGT (English) on 01.09.1994 and thereafter continued as such to the satisfaction of the Management of the Respondent School. The Appellant had unblemished and good record of service to her credit.

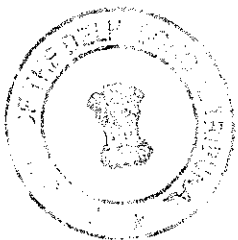
2. V<sup>th</sup> Pay Commission was implemented in the Schools of Govt. of NCT of Delhi w.e.f. 01.01.1996. The teachers and the employees of the Respondent School also became entitle to the benefits of V Pay Commission w.e.f. 01.01.1996 but the Respondent School/ Management did not implement the V Pay Commission illegally and unjustifiably w.e.f. 01.01.1996 but implemented the same w.e.f. 01.04.1997. The Appellant and some other teachers filed a Writ Petition (C) No. 19668/2005 and 5046/1999 challenging the illegal action of the Respondent School. Hon'ble High Court of Delhi vide order dated 11.01.2010 decided the Writ Petition in favour of the Appellant and other co-employees. The judgment of Hon'ble Single Bench was also upheld by the Division Bench in the LPA No. 286/2010 and LPA No. 308/2010 vide order dated

11.05.2012. After the order dated 11.01.2010 of Hon'ble High Court of Delhi and considering the fact that the Appellant and other co-employees were not ready to compromise the matter on Management's terms and conditions, the Management of the Respondent School starting fabricating false complaints against the Appellant and some other co-employees. The Appellant and other co-employees were even not paid the second installment of the arrears.

3. The Appellant was served a memo dated 31.10.2011 thereby raising absolutely vague and false allegations alleging tempering of service book though during her entire service period of 31 years there was not a single complaint against her. The Appellant duly replied the memo denying all the allegations made therein. The Appellant had also demanded photocopy of the said page so as to give a specific reply but the Principal of the Respondent School denied the photocopy of the aforesaid page of the service book. The Appellant vide her reply dated 12.11.2011 submitted that she had signed service book in presence and under the instructions of Dr. K. G. Rohatigi, Manager of the Respondent School. Since the fixation was incorrectly done and revision was not done w.e.f. 01.01.2006

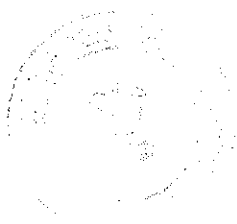
according to the VI Pay Commission the Appellant signed and verified the fixation by writing remarks regarding the incorrect fixation of the salary and non-payment of the benefits of VI Pay Commission. There was no prior written or verbal instructions that employees would not be entitled to write anything on the service book while verifying the fixation of salary on being disagreement with the fixation made by the Management. The Principal of the Respondent School vide letter dated 02.12.2011 again leveled absolutely false allegation that the Appellant had threatened the Management with dire consequences using foul language at 1:15 p.m. on 14.11.2011. The Appellant vide her reply dated 02.12.2011 denied all the allegations made against her. According to the Appellant the entire event was a part of strategy of the Management of the Respondent School to fabricate false case against her to victimize her because of filing case against the Management of the Respondent School in the Hon'ble High Court.

4. The aforesaid memo was followed by a charge sheet dated 07.03.2012 thereby leveling false and fabricated charges. The Appellant replied the aforesaid false charge sheet vide her reply dated 15.03.2012. The



Management of the Respondent School initiated the domestic inquiry against the Appellant without properly considering her reply. The Management of the Respondent School also initiated action against some other co-employees.

5. The Disciplinary Authority/ Committee was not constituted according to the provisions of Rule 118 of Delhi School Education Act and Rules-1973. Neither the nominee of Directorate of Education nor the teacher representative was the part of the Disciplinary Authority/ Committee hence the issuance of the charge sheet, appointment of Inquiry Officer, conducting of inquiry and imposition of the punishment by the Disciplinary Authority are illegal, void ab initio and without jurisdiction.
6. The domestic inquiry was an empty formality and an eyewash. It was pre-decided that the Appellant would be removed from the service and an example be set for others so that no one would dare to raise voice against the unjust practices of the Management of the Respondent School. The domestic inquiry was conducted in utter violation of principles of natural justice. The Appellant was not provided with the copies



of the relevant documents like the relevant page of the service book, attendance register etc. The Appellant was not allowed to cross-examine the Management witness and many times the proceedings were not correctly recorded. Inquiry Officer illegally rejected the request of the Appellant regarding calling annual reports of last 5 years. Inquiry Officer perversely and illegally held in the inquiry report that the charges have been proved. Principles of the Respondent School had appeared in the witness box in the inquiry and had also participated in the meetings of the Disciplinary Authority. The Disciplinary Authority without considering the representation dated 30.07.2012 of the Appellant passed the impugned order dated 30.07.2012. It is prayed that the impugned order dated 30.07.2012 may be set aside and R1 and R3 may be directed to reinstate the Appellant with full back wages alongwith all the consequential benefits.

7. Notice of the appeal was issued to all the Respondents. R1 and R3 have filed their joint reply. It is submitted in the reply that in spite of repeated admonished from time to time by the Principal of the Respondent School no improvement was found in the conduct of the Appellant hence the Disciplinary Committee was served

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charge sheet dated 07.03.2012 to the Appellant pertaining to her misconduct and tempering of official record. She had gone to office of the Principal of the Respondent School for the inspection of the service book and entered into an argument with her without any rhyme and reasons and threatened the Management of the Respondent School with dire consequences and also uttered the words mentioned in the charge sheet. She was neglecting her duties. The reply of the Appellant was considered which was not found satisfactory, therefore, disciplinary proceedings were initiated. Disciplinary Committee ordered the inquiry, an independent Inquiry Officer was appointed to hold the inquiry into the charge sheet dated 07.03.2012. The Inquiry Officer was a practicing lawyer acquainted with the procedure of holding domestic inquiries. The Inquiry Officer conducted the inquiry following the principles of natural justice and as per procedures laid down in Delhi School Education Act and Rules-1973. In the inquiry the Appellant was found guilty of served charges. Disciplinary Committee taking a lenient view awarded the punishment of compulsory retirement instead of dismissal from service.

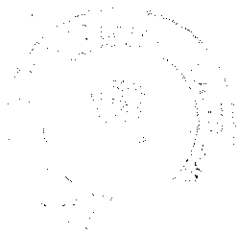


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8. It is totally wrong and misleading that the inquiry was initiated because of the filing of Writ Petition by the Appellant and other co-employees in the Hon'ble High Court of Delhi in the year 2005. It is also wrong and misleading that charge sheet dated 07.03.2012 was served upon the Appellant due to the reasons of filing of Writ Petition (C) No. 19668/2005 pertaining to the claim of V Pay Commission which was in fact given to the Appellant w.e.f. 01.04.1997. But she was claiming w.e.f. 01.01.1996. In fact the Appellant had committed severe misconducts in the employment for which the Management of the Respondent School served upon her the charge sheet. The Inquiry Officer was impartial and independent person. Out of approximately 60 teachers, only these 4 teachers raised the dispute regarding the implementation of the recommendations of V Pay Commission while other mutually settled their differences with the Management of the Respondent School across the table. All other allegations made in the appeal against the Respondents have been specifically denied. It is submitted that there is no merit in the appeal the same may be dismissed.

9. R2 i.e. Directorate of Education in its reply submitted that Respondent School is private, recognized, unaided





school. It does not require permission of the Directorate of Education before terminating the services of its employees. There is no relationship of employer and employee between the Appellant and R2 Department.

10. The Appellant has filed rejoinder to the reply of Respondent No.1 and 3 denying all the preliminary objections and additional pleas taken in the reply and reaffirming the stand taken in the appeal.
11. Arguments heard file perused. Ld. Counsel for the Appellant as well as Respondents addressed their detailed oral arguments. Ld. Counsel for the Appellant as well as R1 and R3 have filed their written submissions which are on the record. As the detailed written submissions of the concerned parties are on the record hence I do not consider it proper to incorporate the detailed arguments of the parties in this order on account of brevity.
12. The sum and substance of the arguments of the Ld. Counsel for the Appellant is that she was victimized because of filing the Writ Petition seeking her salary as per V<sup>th</sup> Pay Commission's recommendations. Only 4

teachers including the Appellant who had approached the Hon'ble High Court of Delhi were charge sheeted and punished, out of total 60 teachers working in the Respondent School. Disciplinary Authority was constituted in violation of Rule 118 of Delhi School Education Act and Rules-1973, neither the nominee of the Directorate of Education nor the teacher representative was present in the Disciplinary Committee. No invitation was ever sent to Directorate of Education to nominate its representative. The documents filed on 22.03.2016 by the Respondent School are forged and fabricated because it does not bear the endorsement of receiving by the Directorate of Education. The Principal of the Respondent School Sh. S. K. Saxena could not have been a Member of Disciplinary Authority when he had appeared as the Management witness in the domestic inquiry against the Appellant. The Appellant was the teacher's representative however no other teacher representative was included in the Disciplinary Authority in place of her as the inquiry was against her when the Management of the Respondent School had allowed the Principal of the Respondent School Sh. S.K. Saxena in the meeting of Disciplinary Committee in



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spite of the fact that he had appeared as Management witness in the domestic inquiry against the Appellant.

13. The remarks made in the service book does not constitute a misconduct. Relevant documents were not supplied to the Appellant in violation of principles of natural justice in spite of the repeated requests of the Appellant. ACRs were never shown/ communicated to the Appellant which could have been relevant evidence for the charge of the late coming. The non-communicated ACRs cannot be taken in consideration for any purpose against the Appellant. Straight away after inquiry, the penalty of compulsory retirement proposed in violation of principles of natural justice. The Inquiry Officer was biased. No opportunity to make representation against the findings of the inquiry report was given to the Appellant. The finding of the Inquiry Officer is perverse and based on no evidence. Ld. Counsel for the Appellant relied upon the following authority in support of his arguments:

1. Arjun Chaubey vs. Union of India, AIR 1984 SC 1356;
2. Mohd. Yunus Khan vs. State of UP & Ors., (2010) 10 SCC 539;
3. Mamta vs. School Management of Jindal Public School and Ors., 2011 V AD (Delhi) 630;



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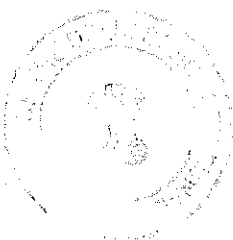
4. Sardar Patel Public Sr. Sec. School vs. Chandra Rani & Ors., LPA no. 763/2015 decided on 29.10.2015;
5. Balakrishna kamath vs. sTate of Kerela & Ors., MANU/KE/0490/1989;
6. State of UP vs. Shatrughan Lal & Anr., AIR 1998 SC 3038;
7. Sukhdev Singh vs. Union of India & Ors., (2013) 9 SCC 566;
8. Managing Director, ECIL, Hyderabad & Ors. Vs. B. karunakar & Ors., (1993) 4 SCC 727;
9. Deepali Gundu Surwase vs. Kranti Junior Adhyapak Mahavidyalaya & Ors., (2013) 10 SCC 324.

14. The sum and substance of the arguments of the Ld. Counsel for R1 and R3 is that the Appellant had gone to office of the Principal of the Respondent School for the inspection of the service book and entered into an argument with her without any rhyme and reasons and threatened the Management of the Respondent School with dire consequences and also uttered the words mentioned in the charge sheet. She was neglecting her duties. Management of the Respondent School was retaining her though she was not performing her duties properly. The Management of the Respondent School have also given her increment from time to time. In spite of such leniency the Appellant committed misconducts during her the employment. The matter was referred to Disciplinary Committee. The Disciplinary Committee served a memo dated



31.10.2011 pertaining to her misconduct and afforded her opportunity to give her explanation. The Appellant had submitted her explanation on 03.11.2011 denying the allegations. The Disciplinary Committee of the Respondent School served a charge sheet dated 07.03.2012.

15. The Appellant submitted her explanation to the charge sheet on 15.03.2012. The Disciplinary Committee after considering her explanation found the same unsatisfactory hence initiated disciplinary proceedings. Disciplinary Authority/ Committee was constituted as per Rule 118 of Delhi School Education Act and Rules-1973. The independent person was appointed as Inquiry Officer who conducted the inquiry following the principles of natural justice. Inquiry Officer submitted her report wherein the Appellant was found guilty of the charges leveled against her. The Disciplinary Committee pursued the inquiry proceedings and finding, the report submitted by the Inquiry Officer and reached to the conclusion that the Appellant has no right to remain in the employment as she has been found guilty of the charges. To afford another opportunity to the Appellant to give her explanation on the findings of the Inquiry Officer a letter dated 13.07.2012 was served



upon the Appellant. The Appellant was compulsorily retired from the service in spite of her dismissal taking a lenient view. Ld. Counsel for the Respondents relied upon the following authorities in support of his arguments :

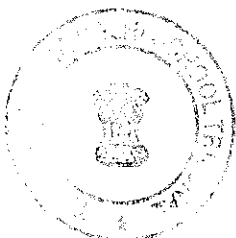
1. Kathuria Public School vs. Directorate of Education and Anr., 123 (2005) DLT 89 (DB);
2. Pyare Mohan Lal v/s. state of Jharkand, 2010 (127) FLR 402;
3. Bank of India vs. Degala Surya Naryana, 1999 Lab. I.C. 2819;
4. HMT Ltd. Vs. Mrs. Chaya Serivastva, 2003 (99) FLR 71;
5. Workmen of Balmadies Estates vs. management of Balmadies Estate; (2008) 4 SCC 517;
6. DG Railway Protection Force and Others vs. K. Raghuram Bahu; (2008) 2 SCC 406;
7. Balkuntha Nath Dass and Another vs. Chief District Medical Officer, Baripada and Another, (1992) 2 SCC 299;
8. Posts and Telegraphs Board & Another vs. CSN Murthy, (1992) 2 SCC 317.

16. This Tribunal has carefully considered all the arguments raised on behalf of both the parties and have gone through the records. The impugned order dated 30.07.2012 is as under:

*"Date. 30.07.2012*

To

*Mrs. Sadhna Payal,  
B-6/101, Safdarjung Enclave,  
New Delhi-110003.*



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Subject: *Compulsory Retirement from service*

*Your representation dated 28.07.2012 has been considered by the Disciplinary Committee in its meeting held on 28.07.2012. After considering your representation alongwith the Enquiry Report and the enquiry proceedings, the Disciplinary Committee found that your representation holds no grounds and the decision to compulsory retire you is reaffirmed by the Disciplinary Committee in the said meeting.*

*You are, hereby compulsory retired from service with immediate effect and advised to contact the school Accountant to settle your account in full and final.*

*(Dr. K. G. Rastogi)*  
*MANAGER"*

17. The above referred impugned order dated was passed on the basis of inquiry report dated 03.07.2012. The inquiry was conducted on the following articles of charges:

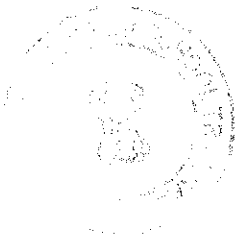
*"The Disciplinary Committee of the School has resolved in its meeting held on 28th February, 2012 that disciplinary action be initiated in this regard, in accordance with the law and charge sheet be issued against you.*

*You are hereby specifically charge sheeted as hereunder:*

- 1. You have tampered with the official record by writing certain remarks on page Nos. 23 & 247 of your service book, in violation of Code of Conduct for Teachers, Rule 123 (a) (iv) and (b) (xv), Delhi School Education Act and Rules, 1973.*
- 2. On 14.11.2011, at about 01.15 p.m. you went to the office of the Principal for inspection of your service book and entered into argument with him without any rhyme and reasons and threatened the Management with dire consequences and also uttered the following words:*

*"SCHOOL WALON NE AGAR MUJH PER KOI  
ACTION LIYA TO MEIN SCHOOL KI EENT SE  
EENT BAJA DOONGI"*

*In this regard, a memo was issued to you on 02.12.2011 by the Principal of the School wherein you were asked to give your explanation to him in writing within 72 hours. Your reply dated 2.12.2011 to the same is not found satisfactory. This charge against you is in breach of Code of Conduct for*



*Teachers, Rule 123 (b) (xvi), (xvii), (xviii) & C(ii), DSEAR, 1973.*

3. *You have been neglecting your duties often reporting late on duty, lacking in initiative revealed in review of your service record for the years 2008-2009, 2009-2010 & 2010-2011. You were advised and requested to improve your behaviour and conduct, on several occasions by the Principal of the School, but in vain. You have, thus, clearly violated Code of Conduct for Teachers, Rule 123 (a) (i) and (c) (i), DSEAR, 1973.*

*The above charges leveled against you are of grave nature and constitute severe misconducts as per Rules 123, Code of Conduct for Teachers, Delhi School Education Act, & Rules 1973, warranting major penalties.*

*You are, therefore, required to give your written explanation to the above charges, within 72 hours from the receipt of this charge sheet as to why the disciplinary action should not be taken against you."*

18. The decision of issuing charge sheet and holding inquiry was taken by the Disciplinary Committee in the meeting dated 28.02.2012 which was attended by the Chairman, Principal and the Manager of the Respondent School only. The relevant minutes of the meeting are as under:

*"Minutes of the Meeting of Disciplinary Committee of Rukmani Devi Jaipuria Public School*

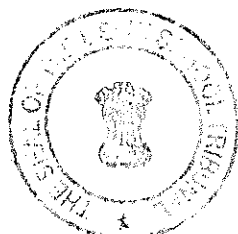
*Meeting of Disciplinary Committee of Rukmani Devi Jaipuria Public School was held on 28<sup>th</sup> February, 2012 at 2.30 p.m. in the school premises.*

*Following members attended the meeting:-*

- |                      |           |
|----------------------|-----------|
| 1. Sh. M.P. Jaipuria | Chairman  |
| 2. Sh. S.K Saxena    | Principal |
| 3. Dr. K.G. Rastogi  | Manager   |

*D.E.'s Nominee, Education Officer, Zone - VII acknowledged our invitation for the meeting but could not attend the meeting.*

*Tr. Representative, Mrs. Sadhna Payal was not invited as action against Tr. Representative was on agenda of the meeting.*



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(i) Cases of Mr. Dinesh chand Sharma and Mrs. Sadhna Payal were discussed. Their replies to the memos for damaging service books were reviewed. Nature of damaging service books by them was reviewed and its was agreed that these staff members have indulged in malpractice and spoiled official record which is a breach of DSEAR Rule 123 a (iv) by not abided by rules and regulations of the school.

(ii) Further allegation against Mrs. Sadhna Payal was that she uttered threatening words to the Principal when she went to his office on 14.11.2011 thereby she is guilty of misbehavior especially with the Head of the School and behaving in a rowdy and disorderly manner in the school premises is a breach of Rule 123 (b) (xvi) and (xviii) of DSEAR. Further a review of the replies of Mr. Dinesh Chand Sharma, Mrs. Bharti Sharma, Mrs. Nisha Khanna & Mrs. Sadhna Payal show that all of them have used same words and language. This show that damaging of Service Book was a planned activity and she had incited her other colleagues to damage the school record, thus, violated Code of Conduct 123b(XV).

Mrs. Sadhna Payal has been neglecting her duties and often reporting late for duty. She was advised to improve her behavior and conduct on several occasions by the Principal but in vain. Thus, she have violated Code of Conduct for teachers under Rule 123a(i) and c(i) of DSEAR, 1973.

(iii) It was decided that these teachers should be subjected to disciplinary action as per DSEAR, 1973 and they be served charge sheet and asked to submit their replies as to why disciplinary action should not be taken against them.

CHAIRMAN"

19. According to the Respondent School nominee of the Directorate of Education was invited but he had not attended the meeting. In this regard Ld. Counsel for the Respondent School placed on the file the alleged letter issued to the Directorate of Education. According to the Appellant no such letter was ever issued to the Directorate of Education. Directorate of Education in reply to an RTI application of the Appellant in this regard submitted that no letter was received from Rukmani Devi Jaipuria School in Zonal Office. The



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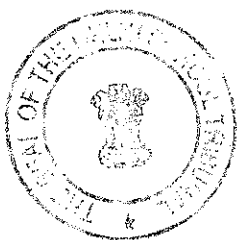
relevant portion of the query in this regard and answer to the same is as under:

2. Did Rukmani Devi Jaipuria Public School, Rajpur Road, Delhi request for presence of nominees from Directorate of Education for the disciplinary proceedings conducted on the dates 28.02.2012, 13.07.2012 and 28.07.2012 in the school? If yes, please provide a copy of the request letter.
- No such letter was received from R. D Jaipuria School in Zonal office.

20. I have perused the letter, photocopy of which is produced on the file, on behalf of Respondent School, this letter bears only somebody's initials without any diary no. and without any official stamp. In view of the specific reply to the RTI application that department had not received any such letter from the Respondent School, this Tribunal left with no option but to accept the contention of the Appellant that no such letter was sent to the Directorate of Education inviting its nominee. Moreover, the copy of the letter produced on the letter is dated 09.07.2012 while meeting of Disciplinary Committee quoted above was held on 28.02.2012. In the meeting of Disciplinary Committee dated 28.02.2012 decision of issuing charge sheet and conducting of inquiry and appointing of Inquiry Officer etc were taken, without having any nominee of Directorate of Education and without having Teachers' Representative. It is argued on behalf of Respondent

School that Mrs. Sadhna Payal, Teachers' Representative, is one of the charge sheeted officer against whom the inquiry was to be conducted, hence no Teachers' Representative was taken in the Disciplinary Committee. It is argued on behalf of Appellant that in her place some other Teachers' Representative could be taken in the Disciplinary Committee but for the reasons best known to the Respondent School, it has not been done so. It is further argued on behalf of the Appellant that Sh. S. K. Saxena, the Principal of the Respondent School had appeared as Management witness in the inquiry against the Appellant and he had also participated in the meeting as a Member of the Disciplinary Committee. When the Respondent School had allowed Sh. S. K. Saxena to participate in the Disciplinary Committee in spite of being a witness the Respondent School should have included some other Teachers' Representative in the meeting of Disciplinary Committee.

21. From the record, it is well proved on the file that Sh.S.K. Saxena, Principal of the Respondent School had appeared as a Management witness in the departmental inquiry against the Appellant and he had



also participated in the Disciplinary Committee meetings. It is also proved on the file that no nominee of the Directorate of Education and Teachers' Representative included in the Disciplinary Committee.

22. It is argued on behalf of the Appellant that she was not provided with the relevant documents i.e. the relevant pages No. 23 & 24 of the service book which were allegedly tempered by her. I have gone through the entire judicial file even the page No. 23 & 24 of the service book which were allegedly tempered by the Appellant are not placed on the judicial file.
23. The Appellant was given memo dated 31.10.2011 with regard to tempering of page No. 23 and 24 of service book. The same is as under:

*"Date: 31.10.2011*

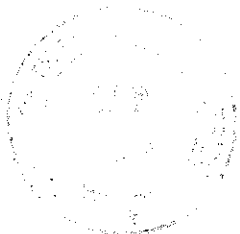
*M E M O*

*Mrs. Sadhna Payal,  
PGT English*

*On scrutiny of your Service Book it is found that you have tampered with official record on 15.03.2010 and 01.07.2011 by writing certain remarks on page no. 23 and 24 of your Service Book, which is violation of Code of Conduct for Teachers.*

*You are required to explain within 72 hours as to why disciplinary action should not be initiated against you."*

24. According to Article of Charges as mentioned in Charge sheet, the inquiry was referred to the Inquiry Officer with regard to ascertaining the fact of tempering with page Nos 23 and 24 of the service book. From the Article of Charge No. 1 it appears that the Appellant



had allegedly tempered with only 02 pages. I have gone through the inquiry report. At page no. 2 of the inquiry report in 3<sup>rd</sup> para it is mentioned that the Appellant had tempered with pages Ex. M/9 to M/19 i.e. 11 pages, the relevant para is as under:

*"Management submitted 11 (Eleven) copies of relevant documents before the enquiry which also exhibited as M/2 to M/20. M/9 to M/19 are photocopies of pages of tempered pages of Service Book and Salary register for the month of May, 2011 to February, 2012. Photocopy of Service Book of tempered pages of Mrs. Sadhna Payal is Exh. as M/9 and M/20 in the photocopy of late coming record of charge-sheeted employee for the period from January, 2011 to march, 2012."*

25. On page No. 15 of the inquiry report in first paragraph it is mentioned that the Appellant had tempered with page no. 23 of the service book. The relevant paragraph of the inquiry report on page 15 are as under:

*"In respect of charge no. 1, the management first of all has produced Mrs. Suman Bhatia M/1 who is maintaining all the service record of all staff/teachers and other members. She is working in this school since last 22 years. She has prepared the entry of annual increment and it has to be signed by Mrs. Sadhna Payal, but Mrs. Sandhna Payal written a comment over the Service Book. At the time of signing in the Service Book by Mrs. Sadhna Payal, Mrs. Suman Bhatia objected to Mrs. Sadhna Payal not to write any comments over the Service Book but she refused to listen anything and tampered the page nos. 23 of her service book which is exhibited in this enquiry as M/9.*

*In respect of charge number 2, the management has produced Mr. R. K. Dubey M/2. He has stated that I am working in this school since last 10 years. I am looking after the job of Accountant. Further he stated that I am also maintaining Salary register month-wise. I used to take signature of all staff teacher member in the register. But in case of Mrs. Sadhna Payal, I objected her not to write any remarks over the Pay Bill Register and if you want to write anything please discuss to the higher authority. In reply Mrs. Sadhna Payal told me that if I remarks. The remarks written by Mrs. Sadhna Payal in Pay Bill Register were, "Arrears of 6 CPC due increment of 2008 not paid. Salary not revised properly w.e.f. 01.01.2006". Sd/- Sadhna Payal. Mrs. Sadhna Payal has tampered various pages of Salary Pay Bill Register from the month of*

*May,2011 to February,2012 and which have been exhibited from M/10 To M/19."*

26. The Ld. Inquiry Officer in his report concluded that the Appellant had tampered with page no. 23 and 24 of service book and various pages of salary pay bill register Ex. M/10 to M/19. From the Article 1 of the Charge quoted above in this order it is clear that no reference with regard to tempering of salary pay bill register was made to the Inquiry Officer. In these circumstances this Tribunal is of opinion that Inquiry Officer travel beyond his jurisdiction which proves that he was biased in favour of the Respondent School.

27. The Article 3 of the Charges is with regard to late coming and neglecting of her duties and lack of honesty and integrity w.e.f. 2008 to 2011. The Respondent School has not produced ACRs of relevant years of the Appellant on the file. According to the Appellant even the Respondent School failed to provide copy of the relevant ACRs to the Appellant in spite of her repeated demand. These ACRs are most relevant documents to decide the Article No. 3 of Charges but none of the ACRs has been produced on the file or given to the Appellant. In these circumstances this Tribunal is of the opinion that finding of the Inquiry Officer qua Article of Charges No. 1 & 3 is without any evidence hence perverted.



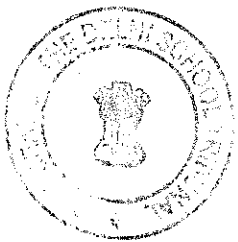
28. Article 2 of the charge is with regard to entering into arguments with the Principal of the Respondent School. Principal of the Respondent School sh. S. K. Saxena had appeared and supported the case of Management and Inquiry Officer relied upon his evidence concluded in the inquiry report that Article of Charge No. 2 has been proved. But as discussed above it is also proved on the file that Inquiry Officer was biased in favour of Respondent School.
29. I have also carefully gone through the authorities relied upon for the Ld. Counsel for Respondent School there is no dispute in the ratio of law laid-down in these authorities. However, the ratio of law in an authority is laid down according to the facts and circumstances of that particular case and the same may not be squarely applicable to the fact and circumstances of each case. In the above discussed peculiar facts and circumstances of this case, ratio of law laid-down in the authorities relied upon by Ld. Counsel for Respondent School, is not applicable.
30. Considering the cumulative effect of the facts that Sh. S. K. Saxena, Principal of the Respondent School had appeared as a witness in the inquiry proceedings against the Appellant and had also participated in the meeting of Disciplinary Committee; no nominee of the Directorate of Education was present in the Disciplinary Committee; no



*[Handwritten signature]*

Teachers' Representative was included in the Disciplinary Committee; relevant documents were not provided to the Appellant in spite of her demand, Inquiry Officer was biased in favour of Respondent School, findings of Inquiry Officer qua Articles of Charges No.1 and 3 is without any evidence, this Tribunal is of the opinion that the impugned order dated 08.04.2013 is illegal and arbitrary hence the same is set aside. R1 and R3 are directed to re-instate the Appellant with immediate effect. Appellant will be entitled for full wages alongwith all the consequential benefits from the date of this order onwards.

31. With respect to the back wages, in view of Rule 121 of Delhi School Education Act and Rules 1973, the Appellant is directed to make exhaustive representation to the R1 and R3 within a period of 4 weeks from the date of this order, as to how and in what manner the Appellant will be entitled to complete wages. The R1 and R3 are directed to decide the representation given by the Appellant within 4 weeks of receiving the same by a speaking order and to communicate the order alongwith the copy of the same to the Appellant. Order accordingly. File be consigned to record room.



*sdf*  
 (V K MAHESHWARI)  
 PRESIDING OFFICER  
 DELHI SCHOOL TRIBUNAL

PLACE: DELHI  
 DATED: 19.04.2016

Certified to be True Copy