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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 944/2020, REVIEW PET. 91/2021

LALITA KUMARI

..... Petitioner

Through: Mr. Anuj Aggarwal, Adv.

versus

DELHI SOCIAL WELFARE BOARD & ANR

..... Respondent

Through: Mr. Ravi Prakash, Adv. with
Mr. Varun Aggarwal &
Mr. Gurtejpal Singh, Adv. for R-1
(Review Petitioner)

Mrs. Avnish Ahlawat, SC (GNCTD)
with Mrs. Tania Ahlawat, Mr. Nitesh
Kumar Singh & Ms. Palak
Rohemetra, Adv. for R-2

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **19.07.2021**

The matter is being heard through Video-Conferencing.

REVIEW PET. 91/2021

1. This is a review petition filed by the respondent No.1 for review of judgment / order dated February 25, 2021 passed in the writ petition.
2. Vide the said order, I have allowed the writ petition and set aside the termination of the petitioner on the ground that the order of termination is based on a misconduct, that she is in the habit of taking photographs of the office records in her mobile phone unauthorizedly and keeping those records

in her possession in digital form, and directed, the petitioner to be entitled to full back wages and she should be put in the same position as if the termination had not been effected. But at the same time, keeping in view the nature of allegations against the petitioner, liberty was granted to the respondent No.1 to proceed against the petitioner in accordance with the principles of natural justice.

3. The submission made by Mr. Ravi Prakash, learned counsel for the review petitioner is that though this Court had given liberty to the respondent No.1-review petitioner to take action against the petitioner in accordance with the principles of natural justice but the review petitioner should be given liberty to invoke the provisions of Rule 5 of the Temporary Service Rules and pass order. Mr. Prakash has relied upon the following judgments in support of his contention:-

- (i) ***Durgabai Deshmukh Memorial Sr. Sec. School v. J.A.J. Vasu Sena, (2019) 17 SCC 157;***
- (ii) ***Rajasthan High Court v. Ved Priya 2020 SCC OnLine SC 337;***
- (iii) ***High Court of Judicature at Patna v. Pandey Madan Mohan Prasad Sinha & Ors. (1997) 10 SCC 409;***
- (iv) ***Dipti Prakash Banerjee v. Satyendra Nath Bose National Centre for Basic Sciences, (1999) 3 SCC 60;***
- (v) ***State of Haryana v. Satyender Singh Rathore, (2005) 7 SCC 518;***
- (vi) ***Abhijit Gupta v. S.N.B. National Centre, Basic Sciences, (2006) 4 SCC 469;***
- (vii) ***S.P. Vasudeva v. State of Haryana, (1976) 1 SCC 236;***
- (viii) ***State of U.P. v. Ram Chandra Trivedi, (1976) 4 SCC 52;***
- (ix) ***Kendriya Vidyalaya Sangathan v. Arunkumar Madhavrao***

Sinddhave, (2007) 1 SCC 283;

(x) Manzoor ul Haque vs. Bombay Mercantile Cooperative Bank Ltd. 2018 SCC OnLine Del 11821;

(xi) Hari Niwas Gupta v. State of Bihar, (2020) 3 SCC 153.

4. Mr. Prakash concedes to the fact that in none of the judgments, as relied upon by him, it is held that if the order of termination is held to be bad, as the same is stigmatic, the employer is within his right to again invoke the provisions of Rule 5 of the Temporary Service Rules. The judgments relied upon by Mr. Prakash are primarily on the merit of the conclusion drawn by the Court in the order dated February 25, 2021. In other words, Mr. Prakash has not been able to show me any error apparent on the face of the record. Rather, the respondent No.1 by seeking liberty to again invoke the provisions of Rule 5 of the Temporary Service Rules, is challenging the conclusion drawn by this Court in the said judgment / order.

5. I do not see any reason to review the order dated February 25, 2021 and the same is dismissed.

V. KAMESWAR RAO, J

JULY 19, 2021/ak