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

% *Date of Decision: 10th April, 2023*

+ W.P.(C) 7820/2019 & CM APPL. 32495/2019

UMESH GAUBA Petitioner
Through: Mr. Anuj Aggarwal, Advocate

versus

MODERN CHILD PUBLIC SR. SEC. SCHOOL
(RECOGNIZED) AND ANR. Respondents
Through: Mr. K.P. Sundar Rao and
Mr. Udesb Puri, Advocates for R-1.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

1. Present writ petition has been filed seeking the following reliefs:-

“(i) Issue an appropriate writ, order or direction thereby setting aside the impugned Office Order Ref No. MCPS/4931/7/19 dated 27.05.2019, (Annexure A-1) whereby the petitioner was placed under suspension with immediate effect by the respondent No. 1/school;

(ii) Declare that the suspension of the petitioner from service vide impugned Office Order Ref No. MCPS/4931/7/19 dated 27.05.2019 is illegal as well as unjustified and the petitioner is entitled to all the consequential benefits including reinstatement in service, full salary w.e.f 27.05.2019, etc.

(iii) Issue an appropriate writ, order or direction thereby directing the respondent No.1 to reinstate the petitioner in service and pay her full salary w.e.f 27.05.2019 till the date of her reinstatement in service along with interest thereupon to be calculated @ 18% per annum;

(iv) Issue an appropriate writ, order or direction thereby directing the respondent No.1 to pay to the petitioner salary for the month of May, 2018 along with interest thereupon to be calculated @ 18% p.a.;

(v) Issue an appropriate writ, order or direction thereby directing the respondent No. 2, i.e. the Director of Education, Govt. of NCT of Delhi, to take appropriate action, in accordance with the provisions

of the Delhi School Education Act, 1973, against the respondent No.1/school on account of violating Section 8 (4) of the Delhi School Education as well as Rules 115 and 116 of the Delhi School Education Rules 1973; and

(vi) Allow the present writ petition with exemplary compensation, cost and litigation expenses in favour of the petitioner.”

2. Indisputably, the impugned suspension order was passed on 27.05.2019 and on the same date, an order was also passed terminating the services of the Petitioner. Parties are *ad idem* that Petitioner challenged the termination order before the Delhi School Tribunal and the same has been set aside. In the meantime, Petitioner has retired on superannuation on 31.05.2021.

3. Considering the fact that the termination order was passed on the same date as the suspension order, question of grant of any allowances for the suspension period does not arise. However, since the suspension order was passed without the approval of the Directorate of Education, as mandated under Section 8(4) of the Delhi School Education Act, 1973, no doubt, the same is illegal and deserves to be quashed, as a matter of record. In this view, no further orders are required to be passed in the present writ petition.

4. Mr. Anuj Aggarwal, learned counsel appearing on behalf of Petitioner, however, prays that some costs may be awarded in favour of the Petitioner as he has been unnecessarily compelled to file the writ petition on account of an illegal suspension order. The Court finds merit in this contention. Judgments have been repeatedly passed by this Court that a suspension order requires prior approval of the Directorate of Education under Section 8(4) of the aforementioned Act and in fact, the provision itself is explicitly clear on this mandate. Despite this, the impugned suspension order was passed by the School, compelling the Petitioner to approach this Court.

5. Writ petition is, therefore, allowed and disposed of to the extent of quashing the impugned suspension order dated 27.05.2019 with costs of Rs.20,000/- to be paid by the School/Respondent No.1 to the Petitioner, within six weeks from today. Pending application also stands disposed of.

APRIL 10, 2023/kks

JYOTI SINGH, J



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