

(2018) 05 DEL CK 0437
In the Delhi High Court
Case No : W.P.(C) 8172 OF 2017

KIRANJOT SINGH

APPELLANT

Vs

DIRECTORATE OF EDUCATION & ANR.

RESPONDENT

Date of Decision : 29-05-2018

Acts Referred:

Citation : (2018) 05 DEL CK 0437

Hon'ble Judges : Sunil Gaur, J

Bench : Single Bench

Advocate : Awantika Manohar, Puneet Mittal, Ankur Goel

Final Decision : Dismissed

Judgement

1. Impugned order of 17th May, 2017 (Annexure-A/32) declines petitioner's application for re-employment, while noting that on 2nd February,

2017, a warning was issued to petitioner to abstain herself from inflicting corporal punishment, which was preceded by a Show-Cause Notice of 31st

January, 2017. Impugned order also notes that ShowCause Notice of 15th February, 2017 was issued to petitioner for her misconduct in the

Principal's room and that complaints were received from the parents and the students. Impugned order concludes that all relevant records,

including ACRs and memo issued to petitioner for the last five years, have been perused and thereafter, re-employment has been denied to petitioner.

2. The challenge to impugned order by petitioner's counsel is on the ground that denial of re-employment to petitioner is arbitrary and not in

conformity with the Notification of 29th January, 2007 (Annexure-A/2 colly.). It is pointed out by petitioner's counsel that re-employment to all the

retiring teachers upto PGT level is to be automatically allowed, subject to fitness

and vigilance clearance.

3. Learned counsel for petitioner submits that service record of petitioner has been good and the complaint regarding inflicting of corporal punishment

to a student is false and that various memos have been issued to petitioner on frivolous grounds of talking on mobile phone during class and on account

of her being late for substitution classes, refusal to collect fees, etc. It is submitted by petitioner's counsel that petitioner is recipient of 'letter of

appreciation' from Human Resource Development Minister in the year 2014 and Role Model Teacher Award has been bestowed upon petitioner

in the year 2015, which justifies reemployment of petitioner. It is also pointed out by petitioner's counsel that Maullana Abul Kalam Azad

Excellence Award for Education-2015 has been bestowed upon petitioner on account of her distinguished service in the field of education.

4. It is pointed out by petitioner's counsel that in the year 2012-13, one memo was given to her for recording wrong entry of marks and in the year

2013-14, three memos were given to her and one of which was regarding refusal to collect fees and remaining two memos for being late for classes.

It is highlighted by petitioner's counsel that in the year 2014-15, no memo was given to her and in the year 2015-16, one memo was given to her for

being engrossed on her mobile phone while in class and in the year 2016-17, three memos and two Show-Cause Notices were issued to her, which

were all manipulated to deny re-employment to petitioner. Lastly, it is submitted by petitioner's counsel that petitioner has 34 years of unblemished

service to her credit and is eligible for reemployment in terms of Notification of 29th January, 2007 (Annexure-A/2 colly.). Learned counsel for

petitioner submits that before petitioner was due for retirement, an Advertisement for the post of TGT General Science was advertised. Reliance is

placed by petitioner's counsel upon Supreme Court's decision in *Kranti Associates Private Limited and Another vs. Masood Ahmed Khan*

and Others (2010) 9 SCC 496 to submit that recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and

quasi-judicial power or even administrative power and since the impugned order is bereft of reasons, therefore, it ought to be set aside.

5. Learned senior counsel for respondent-School supports impugned order and submits that the advertised post was of TGT whereas petitioner was

PGT and that there was no animosity against petitioner, whose service record for the last five years prior to her retirement speaks for itself. It is

disputed by senior counsel for respondent-School that petitioner has an unblemished service record, as it is pointed out that several memos were issued

to her on various occasions and after an enquiry, she was let off with a warning in a case where she had committed serious misconduct of inflicting

corporal punishment upon two students. Reliance is placed upon decision of Division Bench of this Court in *Manohar Lal vs. Govt. of NCT of Delhi &*

Ors. (2015) 219 DLT 140 to submit that the right is to be considered for re-employment and not of reemployment. Thus, it is submitted that petitioner

has been duly considered for re-employment and due to her service record, she has not been re-employed.

6. Upon hearing and on perusal of impugned order, material on record and the decisions cited, I find that though the Notification of 29th January, 2007

(Annexure-A/2 colly.) provides for automatic re-employment to all retiring teachers, but it is subject to fitness and vigilance clearance. Not only this,

the professional fitness is to be assessed upon considering the work and conduct of an employee. The record has been produced by respondent-School

and on its perusal, it becomes evident that on 28th July, 2016, on a surprise inspection, it was found that petitioner was engrossed on her mobile phone

for more than ten minutes in the class and did not even notice the inspection team and students of the class were roaming in the corridor and petitioner

did not bother to control their movement. Considering this to be a serious lapse, an explanation was called from petitioner. Although petitioner was let

off with a warning, but it does not dilute the misconduct of inflicting corporal punishment.

7. Though petitioner has received the Role Model Teacher Award and a letter of appreciation from Human Resource Development Minister,

but the misconduct attributed to her in the year 2016-17 clearly disentitles petitioner to re-employment. Pertinently, one of the memos issued to

petitioner concerns about being not punctual. Even if petitioner's ACRs are good, but still the conduct of petitioner, as highlighted in various

memos, justifies denial of re-employment to petitioner.

8. The necessity of recording reasons, as highlighted by Supreme Court in *Kranti Associates (supra)*, arose in a case of National Consumer Dispute

Redressal Commission dismissing the revision petition by cryptic order. The assessment of a teacher for re-employment cannot be judged on the parameters of a reasoned order. Otherwise also, I find that impugned order and the counter-affidavit filed by respondent-School sufficiently justifies the denial of re-employment to petitioner.

9. In *Manohar Lal (supra)*, a Division Bench of this Court has clarified that right of a teacher is not to re-employment but to be considered for re-employment, which has been done in the instant case. In the considered opinion of this Court, re-employment is subject to teacher's work and conduct, which in case of petitioner is adverse. Thus, no case for quashing the impugned order is made out. Denial of reemployment to petitioner is found to be amply justified.

10. In light of the aforesaid, finding no substance in this petition, it is dismissed.