

(2008) 04 DEL CK 0086
In the Delhi High Court
Case No : WP (C) No. 3164 of 2008

Mrs. Chhaya Sukheja

APPELLANT

Vs

Lt. Governor and Others

RESPONDENT

Date of Decision : 25-04-2008

Acts Referred:

Constitution of India, 1950 — Article 226
Delhi School Education Act, 1973 — Section 8(2)
Delhi School Education Rules, 1973 — Rule 110

Citation : (2008) 04 DEL CK 0086

Hon'ble Judges : Anil Kumar, J

Bench : Single Bench

Advocate : R.P. Bansal and Rakesh Mahajan, for the Appellant; Sujata Kashyap, for the Respondent

Judgement

Anil Kumar, J.—CM No. 6104/2008

Allowed subject to all just exceptions.

W.P(C) No. 3164/2008 and CM No. 6103/2008

1. The petitioner has sought a direction that she is entitled to appointment on contract basis for a period of one year and extendable for another year in service as Principal of the Arya Samaj Girls Sr.Sec.School, Chawri Bazar, Delhi on attaining the age of 60 years as per the terms and conditions provided in Circular No. F.30-3(28)/Coord./2006/3398-3411. The petitioner has further sought a declaration that she continues to hold the post of Vice-Principal of the said school till 30th April, 2008 as per Rule 110 of Delhi School Education Act and Rules, 1973.

2. The petitioner contended that she attained the age of 60 years on 29th February, 2008 and in accordance with Rule 110 of Delhi School Education Act and Rules she was to be re-employed as Vice-Principal of the school till 30th April, 2008.

3. The petitioner's grievance is that she has been re-employed only up to 31st March, 2008 which is in gross violation of the Rule 110 of Delhi School Education Act and Rules and, Therefore, the petitioner is deemed to be continuing as a Vice-Principal up to 30th April, 2008. The petitioner is stated to have made a representation to the respondents, however, the case of the petitioner has been rejected by order dated 24th March, 2008.

4. A Division Bench of this Court in Kathuria Public School and Ors. v. Director of Education and Anr. 2005 VI AD (Delhi) 893 relying on T.M.A.Pai Foundation v. State of Karnataka AIR 2003 SC 345 had held that it is advisable that the specialized Tribunal constituted should look after the legal matters relating to hearing of grievances of teachers and employees. The Division Bench relying on T.M.A.Pai Foundation (Supra) had held that specialized Tribunal should hear any grievance of the teacher. It was further held that no restriction has been placed on the scope and ambit of the consideration of the grievances of the teacher or employee by the Tribunal and consequently the Tribunal should be able to hear all the grievances including in respect of suspension of a teacher or an employee and, Therefore, the Tribunal constituted under the Delhi School Education Act should be able to hear all the grievances of the staff and teachers and not necessarily as restricted to in Sub section (2) of Section 8 of the said Act. The Division Bench in para 42 at page 910 had held as under:

42. No restriction has been placed on the scope and ambit of the consideration of the grievances of the teacher or employee by the Tribunal. Under the said Act in question, the Tribunal is already constituted. Thus, all that is to be done is that the Tribunal should be able to hear all grievances including in respect of suspension by a teacher or an employee. Taking into consideration the observations made by the Apex Court in T.M.A.Pai Foundation case (supra), we are of the considered view that pending necessary legislative action by the State, the Tribunal constituted should be able to hear all grievances of the staff and teacher and not necessarily as restricted to in Sub section (2) of Section 8 of the said Act. The result would be that if a teacher is aggrieved by a suspension order or its prolongation, the grievance can be made before the Tribunal depending upon the fact and circumstances of the case.

5. Considering the facts and circumstances the petitioner has an alternative remedy to approach the Tribunal constituted under the Delhi School Education Act, 1973 for the direction to the respondents to allow her to hold the office of Vice Principal of the respondent No. 4 school up to 30th April, 2008 and that she is entitled for appointment on contract basis for a period of one year which is extendable for another year as a principal of respondent No. 4.

6. Therefore, in the facts and circumstances this Court is not exercising its jurisdiction under Article 226 of the Constitution of India and it is for the petitioner to exhaust her alternative remedy available to her under the Delhi School Education Act and Rules, 1973 and to approach Delhi School Tribunal.

7. In the circumstances, the writ petition is disposed of with liberty to the petitioner to approach Delhi School Tribunal under the Delhi School Education Act, 1973 or to invoke any other remedy, if available to her. With these directions the writ petition and all pending applications are disposed of. duty to the counsel for the Petitioner.