

(2009) 03 DEL CK 0321

In the Delhi High Court

Case No : Writ Petition (C) No. 7701 of 2009

Mrs. Lovely Jyoti

APPELLANT

Vs

Mount Carmel School and Another

RESPONDENT

Date of Decision : 23-03-2009

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2009) 03 DEL CK 0321

Hon'ble Judges : Kailash Gambhir, J

Bench : Single Bench

Advocate : Rajiv Bajaj, for the Appellant; Mohammad Sajid, for the Respondent

Final Decision : Dismissed

Judgement

Kailash Gambhir, J.—The present petition has been filed by the petitioner under Article 226 of the Constitution of India seeking direction for quashing the termination letter dated 20.2.2009.

2. The brief facts of the case as set out in the petition are that the petitioner was engaged as a teacher for teaching political science to the students of XI standard of the respondent school vide letter dated 17/12/2007. The petitioner was teaching students and performing her services with due diligence but the respondent school vide termination letter dated 20.2.2009 terminated the services of the petitioner w.e.f. 1/4/2009.

3. Mr. Rajiv Bajaj counsel for the petitioner contends that the services of the petitioner were terminated without any rhyme or reason by the respondent school. The counsel submits that the petitioner taught her students diligently and as a result the students were affectionate to her. He further maintains that even the other staff members and the principle of the school were happy with petitioner's conduct and there were no complaints against her. The counsel urges that the petitioner was given all the benefits as the other teachers were getting. The counsel contends that the termination letter dated 20/2/2009 is

arbitrary and illegal and the same deserves to be quashed.

4. Per contra, Mr. Mohammad Sajid, counsel for the respondent No. 2 Director of Education, drew attention of this Court to the letter of appointment issued by the respondent No. 1 school on 17/12/2007 and also the termination letter dated 20/2/2009, wherein it is mentioned that the petitioner was appointed on probation for a period of one year and her services were to come to an end with efflux of time on 31/12/2008.

5. I have heard learned Counsel for the parties and perused the record.

6. It is now well-settled principle of law that the appointment made on probation or ad hoc basis or contractual basis, for a specific period of time, comes to an end with the efflux of time and the person holding such post can have no right to continue on the said post. As per Clause 1 of the letter of appointment dated 17/12/2007, the services of the petitioner were engaged by the respondent school for a period of one year, which automatically ended on 31/12/2008 unless extended by November 2008. Further, as per Clause 5 the management reserved the right to terminate her services at anytime after giving one month's notice or one month's salary in lieu of notice. Vide termination letter dated 20.02.2009 the petitioner was directed to hand over charge on 24/3/2009 to the Head of the Department. The said termination letter simply states that the contract of the petitioner expired on 31/12/2008 and her services were not required after 31/3/2009. In the instant case as noticed above, the petitioner accepted the appointment including the terms and conditions stipulated in the appointment letter and joined the respondent No. 1 school as a teacher for teaching Political Science to students of standard XI and continues on the said post till 31/3/2009. The petitioner having accepted the terms and conditions stipulated in the appointment order and since the period for which she was appointed has elapsed by efflux of time, she cannot permitted now to turn round and say that her appointments could not be terminated on the basis of the appointment letter nor she could be treated as temporary employee. The petitioner was well aware of the fact from the day one that with the lapse of time she will have to leave the school and her services will be terminated. The submission made by the learned Counsel for the petitioner to the said effect has no merit and is, therefore, liable to be rejected. Furthermore, simply because petitioner remained in service of the respondent No. 1 school for about 2-3 months more than the contractual period will not entitle her to claim any vested right or permanency on the said post. The appointment of the petitioner being purely contractual on the said post terminable at the end of 31/12/2008 does not entitle the petitioner to claim regular appointment on the said post. Also, the said contention of the counsel for the petitioner cannot withstand the scrutiny of law, in the light of the judgment rendered by the Supreme Court in the case of Secretary, State of Karnataka and Others Vs. Umadevi and Others, , the relevant paragraph of the same is reproduced as under:

38. When a person enters a temporary employment or gets engagement as a

contractual or casual worker and the engagement is not based on a proper selection as recognised by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post when an appointment to the post could be made only by following a proper procedure for selection and in cases concerned, in consultation with the Public Service Commission. Therefore, the theory of legitimate expectation cannot be successfully advanced by temporary, contractual or casual employees. It cannot also be held that the State has held out any promise while engaging these persons either to continue them where they are or to make them permanent. The State cannot constitutionally make such a promise. It is also obvious that the theory cannot be invoked to seek a positive relief of being made permanent in the post.

7. In view of the above discussion, I find no merit in the present petition.

8. Dismissed.