

(1993) 10 DEL CK 0008

In the Delhi High Court

Case No : Civil Writ Petition No. 4171 of 1993 and Civil Miscellaneous Appeal No. 6658 of 1993

Neeta Aggarwal and Others

APPELLANT

Vs

Raj Wadhwa and Others

RESPONDENT

Date of Decision : 13-10-1993

Acts Referred:

Delhi University Act, 1922 — Order 12

Citation : (1993) 52 DLT 273

Hon'ble Judges : D.P Wadhwa, J;D.K. Jain, J

Bench : Division Bench

Advocate : S.C. Gupta, Pradeep Nandrajog, Rajendra Dhawan, R.C. Beri, V.P. Chaudhary and Rajan Sareen, for the Appellant;

Judgement

D.P. Wadhwa, J.

(1) This petition has been filed by six petitioners who claim themselves to be eligible to be appointed as Principal of the Vivekananda College, Vivek Vihar, Delhi ("College" for short), and, thus, challenge the re-employment of the first respondent as Principal of the College. The Vice-chancellor of Delhi University and the Chairman, Governing Body of the College have been implead as respondents.

(2) Petitioners say that the Statute of the Delhi University provides that every College shall have a duly constituted Governing Body consisting of not more than twenty persons approved by the Executive Council of the University and including, among others, at least two representatives of the teaching staff and the Principal of the College as Member-Secretary. It is stated that the Governing Body of the College is thus a statutory body/authority. The college itself was started by the Delhi Administration and is an affiliated college of the University. It is not necessary for us to go into details as to how the appointment of the employees of the College including as well of Principal and other teaching staff is to be made. Admittedly, the first respondent was Principal of the College. She

attained the age of 60 years on 31 July, 1993. The Governing Body of the college resolved to re-employ the first respondent as Principal for a further period of three years or till she attained the age of 63 years whichever was earlier. This was approved by the Vice-chancellor of the Delhi University and a letter to this effect dated 9 June, 1993 was written to the Principal, Vivekananda College, that "the Vice-chancellor has been pleased to approve the proposal of the College for the re-employment of Dr. (Mrs) Raj Wadhwa, Principal in Vivekananda College w.e.f. 1-8-1993 for a period of 3 years or till she attains the age of 63 years which ever is earlier". It appears, on the basis of a letter dated 5 July, 1993 issued by the Central Government in the Ministry of Human Resources and Development, the Chairman of the Governing Body of the College on 30 July, 1993 wrote a letter to the first respondent that she could continue to work as a Principal only up to the end of the month, i.e. 31 July, 1993. She was directed to hand over the charge of the Principal of the College to Mrs. Neelam Bakshi or in case of her non-availability to the next senior most person (now the first petitioner before us) w.e.f. 31 July, 1993. There was dispute as to the authority of the Chairman, Governing Body, to address such a letter. On 4 August 1993 the University again wrote a letter to the first respondent in reply to her letter to the Vice-Chancellor. She was informed that subsequent to the approval by the Vice-Chancellor to the decision of the Governing Body of Vivekananda College to re-employ her as Principal of the College after superannuation w.e.f. 1 August 1993, so far as the Delhi University was concerned she continued to be validly re-employed and recognised as Principal of the College.

(3) On 4 August 1993 itself Dr. (Mrs) Raj Wadhwa filed a writ petition in this Court (C.W.P. No. 3667/93) challenging the aforesaid letter of the Chairman of the Governing Body. When that matter came up for admission we stayed that letter and ultimately on 11 October 1993 on a statement made by the Chairman of the Governing Body that he had agreed to withdraw his letter dated 30 July, 1993 that petition was dismissed as withdrawn.

(4) The present petition was also listed on 11 October, 1993. The principal ground of attack was that under the relevant Ordinance of Delhi University a Principal could not be re-employed as a Principal and reliance was placed on the letters written by the Central Government as well as the Chairman, Governing Body, as aforementioned. It was brought to the notice of the Counsel for the petitioners that this Court in a writ petition (C.W.P. No. 4697/93-N.S. Kapoor and Another v. The University of Delhi and Others, decided on 7 October, 1993) had taken a decision that under the relevant ordinance (Ordinance XII) a Principal could be re-employed as a Principal. We had also expressed our view in that decision that the stand taken by the Central Government in their letter dated 5 July 1993 was not correct. The Counsel, however, wanted time to study that judgment. Mr. Gupta, learned Counsel for the petitioners, submitted that under the relevant Clause (Clause 3-A of Ordinance Xii before the Governing Body could pass a resolution to re-employ a teacher after superannuation the approval of the Vice-Chancellor had to be obtained beforehand. He said he was supported

by a decision of this Court in Dr. B.L. Kapur v. Madan Lal Khurana, Cwp No, 3674/90, decided on 20 January 1992). He took us through this judgment, but we are unable to find as to how Mr. Gupta could get support from this judgment. Rather, the Bench pointed out that all that Rule 3-A of Ordinance Xii required was, where re-employment was to be granted, for the Governing Body to pass a necessary resolution and seek approval of the Vice-chancellor. We do not find any merit in this petition. Moreover, we are not satisfied with the bona fides of the petitioners in filing this petition. As noted above, representatives of the teaching staff are on the Governing Body, and as per the relevant rules the Vice-chancellor of the Delhi University approved the proposal of the Governing Body for re-employment of first respondent as Principal of The College. There is no error in the procedure adopted by the Governing Body or the Delhi University. The Chairman of the Governing Body has also since withdrawn his letter dated 30 July 1993. In spite of our stating the law in dear terms we have not been able to understand the insistence of the petitioners to proceed with this petition. This petition, Therefore, fails and is dismissed with costs Counsel fee Rs. 2,000.00.