

(1997) 07 DEL CK 0055
In the Delhi High Court
Case No : Suit No. 3070 of 1997

Rakhi Sharma

APPELLANT

Vs

Lt. Governor

RESPONDENT

Date of Decision : 31-07-1997

Acts Referred:

Citation : (1998) 47 DRJ 127

Hon'ble Judges : V.K. Jain, J

Bench : Single Bench

Advocate : S. Mukherjee and Vijay Pandit, for the Appellant;

Judgement

Vijender Jain, J.

(1) A peculiar situation has arisen on account of the action of the respondents. The petitioner was appointed as a teacher for first standard student by Parent Teacher Association. A resolution was passed by the Parent Teacher Association Executive Committee held on 15th July, 1993 to this effect. It will be important to note the minutes, which are as follows:-

"THEP.T.A. Executive Committee meeting held on 15th July, 1993 at about 10.00 a.m. under the Chairmanship of the Principal for considering the day to day requirements of the school, as such the urgent call was given to the members of the Executive as per the advice of the Principle. The following discussions were made in congenial atmosphere and unanimously passed for immediate implementation; Arrangement of a teacher for 1st standard student, the payment will be arranged Rs. 500.00 p.m. as consolidated amount."

(2) What has been agitated before me by the petitioner is that although she is working as a teacher since 1993 and has been teaching first standard, second standard and third standard students, but she has only been paid a sum of Rs. 500.00 or Rs. 600.00 p.m. whereas, similarly situated persons, who have been teaching in the school are paid the regular scales available to a primary school teacher, which are much higher than what has been paid to the petitioner.

(3) It has also been contended that the respondent-school has not denied that the petitioner was teaching in the school. Learned counsel for the petitioner has invited attention of this court to the counter affidavit on behalf of respondents 1 to 3 at page 19 of the paper book. Paragraph 3 of the counter affidavit reads as under:-

"I submit that the petitioner is teaching/assigned class Iii at present and the timings of the school for primary classes is from 7.30 a.m. to 11.30 a.m. and for senior classes the school timings is from 7.30 a.m. to 12.40 p.m. during winter and from 7.30 a.m. to 1.00 p.m. in the summer."

(4) This paragraph is in reply to the averments made by the petitioner, that the petitioner has been teaching classes I to Iii on full time basis since 9.7.1993 and has been teaching all subjects such as Hindi, English, Social Studies, Maths, Creative Arts, Oral Teaching etc, throughout the regular hours i.e. 7.30 a.m. to 1.00 p.m.

(5) On the other hand the learned counsel appearing for the respondent has contended that the petitioner was neither appointed through the normal channel i.e. after constitution of the Selection Committee nor by Subordinate Staff Selection Board, Therefore, petitioner cannot be paid the salary paid to teachers appointed on a regular basis. The other contention of the learned counsel for the respondents was that the petitioner was not appointed by the school or by the Directorate of Education, but was appointed by the Parent Teacher Association and Parent Teacher Association being not a party, no relief could be granted in this writ petition.

(6) I have heard the arguments advanced by learned counsel for both the parties. At the outset I must say that the appointment by Parent Teacher Association of the petitioner was not within the domain of the Parent Teacher Association. At page 35 of the paper book certain guide-lines issued by the government of National Capital Territory of Delhi, Directorate of Education, interalia, stating that the scope and the object as well as the functioning of the Parent Teacher Association has been filled, no where from the aforesaid guide-lines it can be construed that a teacher could be appointed by the Parent Teacher Association. The argument of the respondents is, that although the appointment was made by the Parent Teacher Association, neither the school nor the principal of the school was responsible for such appointment and as such petitioner is not entitled to regular pay and allowances. Aforesaid stand of the respondent is not correct from the record filed by the respondents themselves. The Executive Committee of the Parent Teacher Association, which was held on 15.7.1993 through an urgent call to the members was summoned at the advice of the principal. Even from the bare perusal of the minutes, it becomes clear that the school was feeling shortage of a school teacher, Therefore instead of creating vacancy a regular vacancy by normal procedure a short method was evolved to appoint a teacher on a less salary. The words "payment will be arranged out of Pta if necessary" connote that respondents were well aware of such

appointment. To say at this stage that neither the school nor the respondents are responsible in appointing the petitioner is neither here nor there. Petitioner has performed work like any other teacher, so she must be paid like any other teacher. "Equal pay for equal work" has been a well settled principle of law. It is illegal and arbitrary to pay Rs.500.00 or Rs. 600.00 p.m. only for performing full work of teacher to the petitioner. I direct that the petitioner be paid full salary, which is paid to the primary school teacher doing similar work from the date of her appointment till the date of this order within a period of 2 months. She will be paid in the same manner if respondents keep the petitioner in the School.

(7) The next prayer of the petitioner is with regard to her employment with the respondent-school. As I have already held that the P.T.A. was not authorised to appoint the petitioner, her appointment was neither by a regular constituted Selection Committee constituted by the Governing Body of the School nor the post was filled up by the S.S.B., which has been recently constituted by the National Capital Territory of Delhi. Said relief cannot be granted to the petitioner. However, petitioner is entitled to be selected, if any vacancy arises in accordance with the rules and regulations in this regard and the case of the petitioner shall be considered in accordance with law.

(8) With these observations, the present petition stands disposed of. It will be open for the respondents, if they desire in the interest of the students to continue with the services of the petitioner till such time the vacancy is filled up in regular course.