

(2023) 05 DEL CK 0029

In the Delhi High Court

Case No : Civil Writ Petition No. 8767 Of 2019, 4542, 4493, 4086, 4092, 4098, 4300, 4489, 4494, 4495, 4496, 4497, 4498, 4500, 6199, 4693, 4710, 4716, 5704 Of 2021, 719 Of 2022, Civil Miscellaneous Application No. 13937, 13732, 12502, 17227, 12464, 12493, 13099, 137

Seema Anil Kapoor & Ors

APPELLANT

Vs

CL Bhalla Dayanand Model School & Ors.

RESPONDENT

Date of Decision : 04-05-2023

Acts Referred:

Citation : (2023) 05 DEL CK 0029

Hon'ble Judges : Jyoti Singh, J

Bench : Single Bench

Advocate : Sermon Rawat, Aastha Vishwakarma, Vansh Kapoor, Rishi Manchanda, Siddharth Mullick, Udit Dwivedi, Gaurav Dhingra, Yeeshu Jain, Jyoti Tyagi, V. Balaji, Nizamuddin, Naushad Ahmed Khan, Latika Choudhury, Hetu Arora Sethi, Kavita Nailwal, Avnish Ahlawat, Tania Ahlawat, N.K. Singh, Palak Rohmetra, Laavanya Kaushik, Aliza Alam, Sujeet Kumar Mishra, Anil Kumar, Zoheb Hossain

Final Decision : Disposed Of

Judgement

Jyoti Singh, J

1. Present writ petitions have been filed by the Petitioners seeking arrears of salaries and allowances due on account of pay revisions under 6th and 7th CPC.

2. Pursuant to the order passed by this Court, an affidavit has been filed, sworn by Sh. Inderjit Singh, working as Chief Account and Audit Officer (CAAO) with Respondent No. 3/Society. It is stated in the affidavit that insofar as 7th CPC arrears are concerned, the same shall be paid to the Petitioners in instalments since C.L. Bhalla Dayanand Model School/School is undergoing a financial crunch. It is further stated that 20% of the arrears due will however be paid as downpayment forthwith. A chart reflecting the calculations of the amounts due and payable to the Petitioners as per the School, is appended to the affidavit

dated 25.04.2023, as Annexure 'A'.

3. Mr. Lakhotia, on instructions, from Mr. Inderjit Singh, who is present in Court, submits that the Society shall honour the commitment made in the affidavit and 20% of the arrears due will be paid immediately while the remaining shall be cleared within 12 months in six equal instalments. He, however, expresses a concern that there is dispute in the calculation between the parties, on account of which finality cannot be reached on the exact amounts to be paid.

4. Learned counsels for the Petitioners, on the other hand, submit that the School is in default not only on account of non-payment of arrears under the 7th CPC but also for non-payment of some amounts outstanding under 6th CPC. They further submit that the calculations furnished in the chart appended to the affidavit are incorrect as dues towards the Petitioners are far in excess and also contend that there cannot be a dispute on the calculations of the amounts payable towards salary and emoluments after granting pay revisions pursuant to Pay Commission's recommendations, as the formulas and methodology for refixation of pay are clearly spelt out in the CCS Revised Pay Rules, which are notified by the Government of India, after Pay Commissions render their recommendations.

5. I have heard the learned counsels for the parties and examined the respective contentions.

6. The issue before this Court lies in a narrow compass. Petitioners are correct in their submissions that it is not open to the School to deny the benefits of pay revisions under 6th and 7th CPC. Learned counsels are also correct in stating that there can hardly be a dispute on the calculations with respect to salary and other allowances payable under 6th and 7th CPC as the mode and methodology of revising the pay has been delineated in CCS (Revised Pay) Rules, 2008 and CCS (Revised Pay) Rules, 2016. Insofar as the submission of the School/Society that on account of financial crunch they need a further period of 12 months to clear the entire arrears and are willing to pay 20% as down payment is concerned, this Court accepts the offer made. However, since there is some dispute on the calculations, in my view, the same can be best resolved by directing the Directorate of Education to intervene in the matter so that the payment of arrears to the Petitioners, which have been long outstanding, are not prolonged any further.

7. It is accordingly directed as under:

(A) Petitioners and the School/Society shall furnish their respective calculations of the amounts due to the Petitioners on account of pay revisions under 6th and 7th CPC, to the Director of Education, within a period of ten days from today;

(B) On receipt of the calculations, the Director of Education will examine the calculations and for which purpose it is open to the Directorate to engage a Chartered Accountant or an Auditor. Before rendering a final report on the

amounts due to the Petitioners, an opportunity of presenting their respective case will be given to both the parties;

(C) The report containing the final calculations shall be furnished to the Petitioners and School/Society and on receipt of the report, the School/Society shall release 20% of the amounts due within a period of one week. The remaining outstanding amounts shall be disbursed to the Petitioners within 12 months thereafter in six equal instalments. The cost incurred for engaging the Chartered Accountant/Auditor shall be borne by the Society;

(D) It is open to the Director of Education to call for necessary records from the School/Society for the purpose of examining the amounts due and arriving at final calculations and needless to state that the School/Society shall render full cooperation in the matter;

(E) The entire exercise of arriving at the final calculations and rendering the report will be completed by the Director of Education within a period of eight weeks from the date of receipt of the respective calculations from the Petitioners and the School/Society.

8. As agreed, an affidavit of undertaking to the aforesaid effect, sworn by Shri Ajay Suri, General Secretary of the Society shall be filed on behalf of the School/Society in this Court, within a period of ten days from today.

9. With these observations and directions, the writ petitions are disposed of along with the pending applications, granting liberty to the Petitioners to take recourse to appropriate remedies in law, in case of any surviving grievance(s).