

(2000) 02 DEL CK 0074
In the Delhi High Court
Case No : CWP. No. 4390 of 1997

Shashi Bala

APPELLANT

Vs

Managing Committee, Sardar Patel Public Sr. Sec. School and
Others

RESPONDENT

Date of Decision : 23-02-2000

Acts Referred:

Citation : (2000) 3 AD 888 : (2000) 53 DRJ 494

Hon'ble Judges : A.K. Sikri, J

Bench : Single Bench

Advocate : Mr. N. Kinra, for the Appellant; Mr. B.S. Chaudhary and Mr. Rattan Lal, for the Respondent

Judgement

A.K. Sikri, J.—Rule

With the consent of parties, the matter is taken up for final disposal at this stage.

2. The petitioner was appointed as Assistant Teacher in Sardar Patel Public Senior Secondary School which is arrayed as respondent No.1 w.e.f. 1.8.1988. She was promoted as TGT (Sanskrit) on 4.7.1989. The petitioner has alleged that the respondent school started paying her less salary w.e.f. 8.8.1991 and when she demanded full pay Along with other teachers who were also paid lesser salaries, respondent started intimidating her thinking that she was the cause of inciting ther teachers. It is not necessary to go into all these details. Suffice is to state that the petitioner was issued charge sheet on 18.3.1977. Disciplinary authority was constituted under Rule 120 of Delhi School Education Rules which itself proceeded to conduct the inquiry. The inquiry was conducted on different dates. Inquiry proceedings were supplied to the petitioner who has herself annexed the same Along with this petition. A perusal of these proceedings shows that on 4.8.1997 meeting of the Disciplinary Authority perused, discussed and considered the charge sheet, defense statement, statement of witnesses, statement of charge sheet and the entire documentary evidence in detail. On that basis it recorded the discussion and conclusion on article of charges. The

material on record in respect of each article of charge is considered and then conclusion arrived at. This discussion recorded in the Minutes as per the charges leveled against the petitioner stand proved in fact can be treated as the report of the Disciplinary Authority. Thereafter on 19.8.1998 meeting the Disciplinary Authority was held and after taking into consideration of the facts and circumstances and the seriousness of the charges Disciplinary Authority was of the opinion that major penalty has laid down under Rule 117(b) of Delhi School Education Rules, 1973 be imposed and accordingly decided to issue cause notice thereby giving 10 days time to the petitioner to reply to the same. It is at this stage, that the petitioner approached this Court by filing the present writ petitioner.

3. The matter is admittedly at a show cause stage and the petitioner has not given reply to the show cause notice and instead filed the present writ petition. Such a petition is clearly premature and not maintainable at this stage.

4. It may be mentioned that Delhi School Education Act and Delhi School Education Rules provide complete machinery for redressal of such grievances. There are safeguards as well in as much as no order or imposition of penalty can be passed upon the petitioner unless there is an approval thereof by Directorate of Education u/s 8 of the Delhi School Education Act. Even if such an approval is given and punishment is imposed, remedy is provided to the petitioner who can challenge such order by filing appeal before Delhi School Tribunal. On this ground also, the writ petition is not maintainable.

5. Counsel for the petitioner however argued that the copy of the inquiry report was not supplied to the petitioner, there are no findings recorded, no defense assistant provided and the authorities were acting in a biased manner. I have seen the proceedings of Disciplinary Authority. As already pointed out above, in proceedings dated 4.8.1997, Disciplinary Authority has recorded the finding and the same were supplied to the petitioner. Therefore petitioner cannot say that no findings are recorded or no copy of the report is given, Petitioner was in fact given opportunity to reply to the show cause notice Along with the said findings. Further more, it is explained in the counter affidavit as under :-

"That the petitioner has not approached this Court with clean hands and has suppressed material facts from this Court in as much as:-

(a) That the punishment order is appealable before Delhi School Education Tribunal.

(b) That the recommendations/conclusions of the disciplinary authority qua, the proposed punishment require prior approval of the Director of Education before giving effect to

(c) That Rule 120, relevant for the purpose of enquiry, does not provide for defense assistant and that no request was made by the petitioner for the said purpose either before the enquiry or at the time of recording the statement.

(d) That the petitioner had preferred to give her own statement when asked to cross-examine the witness and in some cases she refused to cross-examine the witnesses.

(e) That the petitioner had asked for the copies of the entire proceedings and the same were supplied to her on 29.9.1997.

(f) That the petitioner had asked for extension of time for submitting reply to the impugned show cause notice and the same was granted vide letter dated 29.9.1997 and after available the said extension the petitioner did not file any reply to the show cause notice and filed the instant petition.

Therefore, in view of the conduct of the petitioner as aforestated the writ petition deserved to be dismissed.

6. In view of the aforesaid position, it is not a fit case where this Court should interfere at this stage. If ultimately any order adverse to the petitioner is passed, petitioner shall be at liberty to challenge the same by filing appeal before the Delhi Education Tribunal as provided under the provisions of Delhi School Education Act. The petition filed at this stage is clearly premature and also not maintainable.

7. The writ petition is accordingly dismissed. Rule is discharged.

No order as to costs.