

(2004) 07 DEL CK 0013
In the Delhi High Court
Case No : WP (C) No. 2368 of 2002

Shri Harvinder Pal Singh

APPELLANT

Vs

Dashmesh Public School and Another

RESPONDENT

Date of Decision : 27-07-2004

Acts Referred:

Citation : (2004) 113 DLT 66 : (2004) 76 DRJ 69

Hon'ble Judges : Manmohan Sarin, J

Bench : Single Bench

Advocate : Anil Mittal, for the Appellant; Sudhir Nandrajog, for the Respondent

Final Decision : Dismissed

Judgement

Manmohan Sarin, J.—Rule.

With the consent of the parties, writ petition is taken up for disposal.

2. Petitioner by this writ petition assails the order dated 6.12.2001 (wrongly typed as 18.10.2001), passed by the Delhi School Tribunal. Petitioner further seeks a direction to the respondent to reinstate him with benefits such as arrears of salary with interest, seniority, continuity in service etc.

3. Petitioner's case is that he had joined the Dashmesh Public School as a Trained Graduate Teacher (TGT) on 26.7.1991 in the pay scale of Rs. 1400-2600/-. No appointment letter was issued, despite request, on the plea that it would be issued only after the approval of the Directorate of Education. It is the petitioner's case that instead of the salary, as per scale, he was paid Rs.1,000/- per month on the plea that every teacher must contribute to the building fund etc. The salary used to be given by bearer cheque, which was withdrawn by the respondents themselves and thereupon petitioner was paid only a sum of Rs.1,000/-.

4. I have heard Mr. Anil Mittal, counsel for the petitioner, in support of the writ petition. Mr. Mittal submits that the impugned order ignores that the termination

of the petitioner was in complete disregard of the principles of natural justice. No show cause notice had been issued. No charge sheet had been issued. Respondents simply terminated the services and refused to allow the petitioner to enter the premises. Learned counsel for the petitioner submits that assuming but not admitting that petitioner as not attending School, at least show cause notice would have been issued in normal course, seeking his Explanation as to why he had been abstaining or had abandoned the job. Nothing of this was done.

5. Respondents have filed the counter affidavit, refuting the allegations made. It is claimed that the petitioner was a Post Graduate Teacher. Petitioner was being paid the salary as per scale. It is stated that the petitioner, who was a Post Graduate Teacher (PGT), and was unhappy in working as a Trained Graduate Teacher. Therefore when a vacancy became available for the post of PGT, the petitioner applied and was considered for it, but was not found fit. Petitioner, thereupon left the services of his own.

6. Mr. Nandrajog in support of the respondents' case that petitioner had abandoned service of his own, relies on a certificate (Annexure A-1), produced by the petitioner along with the writ petition from his possession. The certificate is to the following effect:-

DASHMESH PUBLIC SCHOOL

Dated 5.9.92.

To Whomsoever it may Concern.

This is to certify that Sh. Harvinder Pal Singh Bindra M.Com., B.Ed., served this School from 26.7.1991 to 2.9.1992 as an T.G.T. He was taking keen interest in Co-curricular activities of the School.

He bears a good moral character.

Headmistress Director.

Dashmesh Public School

7. Mr. Nandrajog rightly submits that had the petitioner not left or abandoned the services of his own accord, there was no occasion for him to produce this certificate. This certificate as given from his possession, shows that he worked from 26.7.1991 to (sic).9.1992. Had the petitioner's services been terminated and he was aggrieved with the same, he would have protested rather than seeking and producing this certificate. Reliance is next placed on a notice dated 16.9.1992 sent on behalf of the petitioner to respondent No. 1. Para 3 of the notice is in the following terms:-

8. The above would indicate that the certificate had been issued at the insistence of the petitioner. The learned Delhi School Tribunal taking note of the above pleadings before it and considering the certificate in question, has reached the conclusion that petitioner had abandoned his services.

9. In the light of the foregoing discussion, I do not find any ground to differ from the finding of the Tribunal that the petitioner had abandoned service of his own accord. This being the situation, writ petition fails and is dismissed.