

(2013) 07 DEL CK 0516

Delhi High Court

Case No: Writ Petition (C) No. 4643 of 2013

Cambridge Primary School

APPELLANT

Vs

The Directorate of Education and
Another

RESPONDENT

Date of Decision: July 24, 2013

Acts Referred:

- Limitation Act, 1963 - Section 14

Hon'ble Judges: Valmiki J Mehta, J

Bench: Single Bench

Advocate: Anirudh Wadhwa, for the Appellant; Purnima Maheshwari, Advocate, for the Respondent

Final Decision: Dismissed

Judgement

Valmiki J Mehta, J.

This writ petition is filed by the petitioner-school impugning the letter dated 10.1.2007 which reads as under:-

No. EO/Zone-25/2006-2007/2139

Dated:-10/1/2007

To

The Headmistress,

Cambridge Primary School,

New Friends Colony, New Delhi-65

Sub: Regarding retirement settlement of Mrs. Yukti Banerjee.

Madam,

Reference above cited subject I am to convey the observations of JAO (South) that pay has to be fixed at Rs. 5850/- giving her the benefit of bunching by adding two increments to the minimum of the new scale as she has drawn six or more increments in the pre-revised scale of pay. Copy of the proforma for pay fixation submitted by the school after correction is enclosed for your reference.

Yours faithfully,

(Kusum Lata Sharma)

Education Officer

Zone-25

Copy for information to:-

Mrs. Yukti Banerjee, M-53, G.K.-II, Ground Floor, Residential, New Delhi.

(Kusum Lata Sharma)

Education Officer

Zone-25

The obduracy of the school went to the extent that they refused to comply with the aforesaid order dated 10.1.2007 and therefore the concerned teacher, namely, Ms. Yukti Banerjee was forced to file a writ petition being W.P. (C) No. 5462/2010 for implementation of the said order dated 10.1.2007. The writ petition ultimately allowed by an order dated 16.1.2013 and only thereafter the petitioner-school has paid the amount due.

2. Today, counsel for the petitioner urges that the petitioner has been all along contesting the claim of Ms. Yukti Banerjee and therefore this writ petition should be entertained. It is also argued that the petitioner should get benefit equivalent to the provision of Section 14 of the Limitation Act, 1963.

3. In my opinion, the obduracy and obstinacy of a person in refusing to pay dues under a final order of Direction of Education by contesting proceedings cannot mean that the said person will have a right after losing in an earlier writ petition filed by the teacher, to file a fresh writ petition for setting aside the impugned order which was passed way back in January, 2007 i.e. six years and six months earlier. No doubt, there are observations in the order dated 16.1.2013 to enable the petitioner to file a fresh petition however that liberty was in accordance with law. Since the law does not permit entertaining of stale challenge and cases are not entertained which are barred by delay and laches, I am not inclined to interfere in this writ petition as the writ petition is barred clearly by delay and laches. No doubt, Limitation Act does not apply to the writ petitions, however that does not mean that the ordinary period of limitation has to be overlooked. Ordinary period of limitation is overlooked only in extenuating circumstances or where a representation is filed by a concerned person

and which representation is pending without rejecting the same. I do not find any ground in this case to entertain a writ petition which is filed six years and six months after cause of action arose. No explanation, much less which is legally acceptable, has been furnished for delay in filing of this writ petition, and as already stated above contesting of writ proceedings by a petitioner as a respondent is not a ground to extend the period for filing of the writ petition in the year 2013 against an order passed in January, 2007. Writ petition is accordingly dismissed, leaving the parties to bear their own costs.