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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 04th August, 2026

\# **CNR No. DLHC010322452007**

\+ W.P.(C) 1767/2007

DR.R.S.GUPTA .....Petitioner

versus

THE DIRECTOR OF EDUCATION ORS .....Respondents

With

W.P.(C) 9933/2015, W.P.(C) 6148/2017, W.P.(C) 58/2018, W.P.(C) 7404/2018, W.P.(C) 10478/2019, W.P.(C) 958/2020 & W.P.(C) 12339/2022

For Petitioners: Mr. Anuj Aggarwal, Advocate (Amicus Curiae) in items no. 2 to 9.
Petitioner in person in item no. 2 to 9.

For Respondents: Mrs. Avnish Ahlawat, SC for GNCTD with Mr. N.K Singh, Ms. Aliza Alam, Mr. Mohnish Sehrawat, Advocates in items no. 2 to 9.
Mrs. Priyanka Garg, Advocate for School Respondent-Hindu Shiksha Samii.
Mr. Anurag Lakhotia, Mr. Udit Dwivedi, Advocates for R-2 in Item 2.
Ms. Latika Choudhary, Advocate for DoE in item 9.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. These eight petitions have been instituted by the same employee at

different stages of his service. They concern his initial date of appointment, adjustment as a surplus teacher, his claim for reabsorption and promotion, financial upgradation under the Modified Assured Career Progression Scheme, suspension, two disciplinary proceedings, annual increments and, following his retirement, the settlement of his retiral dues.

2. The litigation has remained pending for nearly two decades. In that period, many of the immediate grievances have either been worked out, overtaken by subsequent events, or absorbed into later disputes concerning pay, discipline and retiral dues. At the same time, some allegations advanced by the Petitioner, who has appeared in person for a substantial part of the proceedings, stray beyond the limits of writ jurisdiction. The Court must therefore confine itself to controversies which still carry legal or financial consequence, and leave aside matters which are either academic, spent, or incapable of effective relief in these proceedings.

3. Having regard to the volume of the record and the overlapping nature of the proceedings, Mr. Anuj Aggarwal, counsel, was requested to assist the Court as *Amicus Curiae*. He has filed separate reports in the connected petitions, identifying the documents, the issues which arise and the applicable statutory provisions. The Court records its appreciation for the assistance rendered by him. These submissions/reports have been considered along with the pleadings and written submissions of the parties. They are, of course, an aid to the Court and not a substitute for an independent examination of the record.

Appointment and date of joining

4. The Petitioner was selected for appointment as PGT (English) in DAV Senior Secondary School, Chitragupta Road. The record contains an

appointment letter dated 9th October, 2001. The Petitioner states that he commenced work pursuant to that letter and began marking attendance from 15th October, 2001. The School maintains that he formally joined only on 8th January, 2002.

5. The contemporaneous documents do not support the School's stand that the service relationship commenced only on 8th January, 2002. The Principal addressed the Medical Officer on 6th November, 2001 for the Petitioner's medical examination; a medical fitness certificate was issued on 8th November, 2001; and an identity card issued by the Directorate on 17th December, 2001 recorded his date of joining as 2nd November, 2001. On 7th January, 2002, the Directorate itself directed that the Petitioner be appointed with effect from 9th October, 2001. It is true that the Petitioner signed the second appointment letter dated 8th January, 2002 with an endorsement that he was joining on that date. That document, however, cannot explain the official records which had already been generated while treating him as an employee before January, 2002.

6. The Petitioner's claim that he actually worked from 9th October, 2001 has not been established by the original attendance register. The identity card is, however, an official and contemporaneous record and supplies a reliable date which is supported by the steps taken by the School in November, 2001. In these circumstances, 2nd November, 2001 shall be treated as the Petitioner's date of joining for seniority and other service benefits. The corrigendum dated 11th January, 2002, insofar as it treats the appointment as commencing only from the later appointment letter, cannot be sustained and is, therefore, set aside.

7. This finding is confined to the Petitioner's date of joining for service

purposes. It shall not, by itself, entitle him to salary for any period during which he did not actually discharge duties. Salary for the period prior to 8th January, 2002 shall be payable only for those days, if any, on which attendance or other official records establish that he worked. The School and the Directorate shall verify the available records and carry out the consequential calculation accordingly.

Declaration as surplus and adjustment

8. In 2004, the sanctioned strength of PGT (English) in the parent School was reduced from two posts to one. The Petitioner was the junior of the two incumbents. He was accordingly declared surplus and, by order dated 16th August, 2005, adjusted in DAV Senior Secondary School No. 1, Gandhi Nagar. The order stated that he would continue to draw salary from the parent School, i.e., DAV Senior Secondary School, Chitragupta Road, until absorption.

9. The challenge to the declaration of surplus cannot succeed. The reduction in sanctioned strength has not been shown to have been actuated by any personal consideration against the Petitioner. Once the sanctioned strength of PGT (English) was reduced to one post and the Petitioner was the junior incumbent, the declaration of surplus followed from the reduction in sanctioned strength and the applicable seniority position.

10. The Petitioner also challenges the subsequent direction dated 5th January, 2007 that an adjusted employee would draw salary from the school where he was working. There is no statutory right to insist that salary must continue to be routed through the former School after an employee has been adjusted and is working elsewhere. So long as the pay, continuity and other service benefits are protected, the source from which the monthly salary is

disbursed causes no legal prejudice. The challenge to the order dated 5th January, 2007 is consequently rejected.

Reabsorption under Rule 47

11. The position is different when the claim for reabsorption is considered. Rule 47(3) of the Delhi School Education Rules, 1973 contemplates that where an employee becomes surplus by reason of closure of a class or section, discontinuance of a subject, or reduction in staff requirement, the employee may, in the first instance, be absorbed in such Government or aided school as the Administrator may specify. The Rule then creates a distinct obligation in relation to the former school: if the closed class or section is reopened, a new class or section is opened, the discontinued subject is reintroduced, or the staff strength of the former school is increased, the employee shall be reabsorbed in that former school. If such reabsorption does not take place within five years from the date of absorption in the Government or aided school, the employee stands regularly absorbed in the school where he was placed.

12. The Petitioner was adjusted with effect from 2nd September, 2005. The five-year period would therefore not expire before 1st/2nd September, 2010. Before that period ran out, the post-fixation order dated 21st June, 2010 increased the strength of PGT (English) in the former School from one post to two. The former School has also acknowledged in its affidavit that two posts of PGT (English) existed from 2009 onwards. Thus, on either basis, the increase in staff strength occurred within the statutory period.

13. The consequence under Rule 47(3) did not depend upon the Petitioner securing a fresh appointment in the former School. Once the staff strength in the former School increased within five years, the Rule required his

reabsorption there. The subsequent description of the Petitioner as having been "deemed absorbed" in schools managed by Hindu Shiksha Samiti cannot defeat a statutory right which had already crystallised when the former School's sanctioned strength was restored within the prescribed period. An administrative description adopted later cannot efface the event upon which Rule 47(3) operated.

14. The Petitioner has since superannuated on 31st December, 2025. A direction requiring his physical transfer to the former School would now serve no practical purpose. He shall, however, be treated as having been notionally reabsorbed in DAV Senior Secondary School, Chitragupta Road with effect from 21st June, 2010 for the limited purposes of continuity and seniority. Since he remained employed and continued to receive salary in an equivalent post, this declaration is notional and service-related; it does not create any independent claim for back wages.

15. Reabsorption under Rule 47(3), even if granted notionally, does not by itself confer a right to promotion as Principal. Appointment to the post of Principal/Head of School must be made in accordance with the applicable recruitment rules and through the Selection Committee mechanism prescribed for recognised private schools. If, after 21st June, 2010, a vacancy in the post of Principal arose in the former School and, on the basis of his notional reabsorption and seniority, the Petitioner was within the zone of consideration and otherwise eligible under the recruitment rules then in force, his case shall be considered notionally by the competent authority or Selection Committee, as applicable. This is only a direction for consideration and does not create any independent eligibility or entitlement to automatic promotion. If he is found entitled to notional promotion,

consequential refixation of pension and retirement benefits shall follow; however, arrears of salary for the higher post shall not be payable for any period during which he did not discharge the duties of that post.

<u>ACR for 2005-2006</u>

16. During 2005-2006, the Petitioner worked for part of the year in his former School and thereafter in the adjusted School. His confidential report was consequently recorded in two parts. The former School assessed him as "Good", while the adjusted School assessed him as "Average".

17. Rule 112 does not require the former School to write the confidential report for the period during which the employee was actually working elsewhere. The authority which supervised his work during the relevant period was competent to record the report. The prayer for withdrawal and rewriting of the entire ACR by the former School is therefore rejected.

18. The use of that ACR for MACP or promotion stands on a different footing. An entry which adversely affects an employee's prospect of financial advancement must be communicated and the employee must be afforded an opportunity to represent against it. ***Dev Dutt v. Union of India***,[1] applies to an entry which, though not formally described as adverse, operates as a below-benchmark entry. The consequence is not automatic exclusion of the entry, but its communication, consideration of the employee's representation and a fresh decision thereafter.

<u>Speaking order dated 24th September, 2015 and the MACP claim</u>

19. In W.P.(C) 9933/2015, the Petitioner assails the speaking order dated 24th September, 2015, passed by the Directorate of Education pursuant to this Court's order dated 7th July, 2015 in W.P.(C) 6298/2015, on his

representation against the transfer/relieving orders and related service grievances.

20. The order proceeded on the premise that the Petitioner had already been absorbed under the management of Hindu Shiksha Samiti and could thereafter be transferred amongst its schools. No contemporaneous order of absorption was produced. Indeed, the order of 16th August, 2005 described the arrangement as an adjustment pending absorption.

21. The speaking order cannot be sustained to the limited extent that it treats absorption under Hindu Shiksha Samiti as an accomplished fact without any contemporaneous order evidencing such absorption. It is set aside only to that extent. The Petitioner's request for absorption in a Government school is rejected. Rule 47 did not give him a right to choose a Government school; once the post was restored in the former aided School within five years, his statutory claim was to reabsorption there, not absorption into Government service.

22. The Petitioner also seeks first financial upgradation under the MACP Scheme. The Directorate's own order dated 24th September, 2015 had required the management to take action on the MACP claim. The reason subsequently advanced for withholding the benefit appears to have been the "Average" ACRs.

23. The Petitioner completed ten and twenty years of regular service during his tenure and was therefore eligible to be considered for the first and second financial upgradations under the MACP Scheme w.e.f. 2011/2012 and 2021/2022 respectively. The Scheme does not confer an automatic upgradation on completion of service; the cases had to be placed before the

[1] (2008) 8 SCC 725.

competent Screening Committee on the respective due dates. The reports of the *Amicus* also record that it was unclear whether the below-benchmark ACRs relied upon against the Petitioner had ever been communicated.

24. The Directorate and the concerned management shall constitute or convene the competent Screening Committee and consider the Petitioner's claim for the first and second financial upgradations under the applicable MACP Scheme. Before such consideration, every below-benchmark ACR proposed to be relied upon shall be communicated to the Petitioner. He shall be allowed four weeks to represent against it, and the representation shall be decided by an authority superior to the reporting authority, or by such authority as the governing instructions prescribe. The MACP claim shall thereafter be decided by a speaking order within twelve weeks.

25. If either financial upgradation is granted, the Petitioner's pay shall be refixed from the relevant due date and his pension and other retiral benefits revised accordingly. Any benefit already granted shall be adjusted, and there shall be no duplication.

The disciplinary proceedings

26. The disciplinary record is complicated by the overlap of two proceedings. They must therefore be separated at the outset.

27. The first proceeding arose from a complaint alleging that, on 21st April, 2017, the Petitioner entered the Principal's office, used abusive language and threatened or attempted to assault him. The Petitioner was suspended on 28th June, 2017. A preliminary memorandum was issued on 5th July, 2017, followed by a formal charge-sheet dated 21st August, 2017.

28. The first enquiry culminated in a report dated 18th August, 2018. The Disciplinary Committee thereafter recommended withholding of two annual

increments.

29. The second proceeding arose after the Petitioner filed a photocopy of a half-day casual leave application in W.P.(C) 58/2018. The management alleged that the date on the photocopy had been altered from 24th April, 2017 to 21st April, 2017, that the original application had been retained by the Petitioner, and that the departure time in the attendance register had also been altered.

30. A separate charge-sheet was issued on 14th December, 2018. After the Inquiry Officer submitted his report, the Disciplinary Authority issued a memorandum dated 28th September, 2019, stating that it agreed with the findings and tentatively proposed the major penalty of removal from service for gross misconduct, forgery and fabrication of official records. The Petitioner was called upon to represent against the proposed penalty. A further notice followed on 18th November, 2019.

31. W.P.(C) 958/2020 challenges the second proceeding, initiated by the charge-sheet dated 14th December, 2018 and carried forward by the memorandum dated 28th September, 2019. The status described during the hearing as "final arguments on punishment" related to this post-enquiry stage, where the proposed penalty of removal and the Petitioner's representation remained pending. It did not relate to the first proceeding, which had already ended in a minor penalty.

W.P.(C) 6148/2017 and W.P.(C) 58/2018

32. W.P.(C) 6148/2017 challenges the suspension dated 28th June, 2017 and the preliminary memorandum dated 5th July, 2017. W.P.(C) 58/2018 challenges the resolutions, approval and charge-sheet relating to the first proceeding.

33. The suspension dated 28th June, 2017 was approved by the Directorate on 4th July, 2017, within fifteen days. Section 8(4) permits immediate suspension without prior approval only where gross misconduct is alleged, but such suspension cannot continue beyond fifteen days unless communicated to, and approved by, the Director within that period. Section 8(5) further requires the Director to be satisfied that adequate and reasonable grounds exist. Those statutory requirements were met at the inception. The Act does not make separate service of the Directorate's internal approval on the employee a condition for validity.

34. The Petitioner's submission that the cause of action was changed from 22nd April to 21st April, 2017 proceeds on a misreading. The complaint was made on 22nd April, 2017 but described the incident as having occurred on 21st April, 2017. References in some preliminary records to 22nd April, 2017 were imprecise, but they do not establish fabrication of an entirely different incident.

35. The objection regarding the constitution of the Disciplinary Committee is also unpersuasive. Rule 118 prescribes a Committee comprising the Chairman of the Managing Committee, Manager, Director's nominee in an aided school, Head of School, and a teacher-member of the Managing Committee. In the present case, the Principal was himself the complainant and the Manager was named as a witness. Their substitution by a Principal and Manager of other schools was therefore intended to avoid their participation in proceedings in which they were personally involved, while retaining representation corresponding to the positions contemplated under Rule 118. As regards the teacher representative, the Petitioner has not shown that the nominee did not satisfy the requirement of being a teacher-

member of the Managing Committee. No infirmity in the constitution of the Committee is, therefore, made out.

36. In any event, the suspension ended on 27th March, 2019 and the Petitioner rejoined duty on 28th March, 2019. The first enquiry had also concluded by the time the petitions were taken up on 25th September, 2019. The Court then noticed that the principal reliefs had been overtaken by events.

37. W.P.(C) 6148/2017 and W.P.(C) 58/2018 are therefore disposed of as infructuous to the extent they seek revocation of suspension or quashing of the preliminary stages of the first enquiry. The contention based on the difference between the date of complaint and the date of incident is rejected. The financial consequences of suspension and the validity of the minor penalty are considered separately.

W.P.(C) 7404/2018

38. W.P.(C) 7404/2018 challenges the memorandum dated 23rd June, 2018, issued in relation to the alleged alteration of the leave application, and the continuation of suspension beyond 28th June, 2018.

39. The memorandum dated 23rd June, 2018 was only a notice calling for an explanation. It did not decide the charge or impose any consequence. A writ court ordinarily does not interdict disciplinary proceedings at the notice stage unless the notice is without jurisdiction, reflects a closed and irreversible decision, or amounts to an abuse of process. None of those grounds is made out.

40. The continuation of suspension was also not illegal merely because it extended beyond six months. Rule 115(2) permits continuation beyond six months if the managing committee records reasons in writing; the Director

may revoke the suspension if it is unreasonably prolonged. The record shows that extension was placed before, and approved by, the Directorate. Separate service of such approval on the Petitioner was not a statutory condition for continuation.

41. In any event, the suspension ended in March, 2019; the second proceeding thereafter reached the post-enquiry stage of proposed penalty; and the Petitioner has since superannuated. The relief seeking to set aside continuation of suspension has therefore become infructuous. Any surviving consequence of the suspension period is dealt with in the succeeding section.

Prolonged suspension and W.P.(C) 10478/2019

42. The Petitioner remained under suspension from 28th June, 2017 until 27th March, 2019. The period was undoubtedly long. In ***Ajay Kumar Choudhary v. Union of India***,[2] the Supreme Court emphasised that suspension is intended to be temporary and that its extension must rest on contemporaneous reasons. It is not to become a substitute for punishment.

43. In the present case, however, a charge-sheet in the first proceeding was issued within three months of the initial suspension. A further proceeding commenced while the suspension was continuing. The extensions were periodically placed before and approved by the Directorate. The length of suspension is therefore a relevant consideration in settling its monetary consequences, but does not render the entire period void by operation of law.

44. Further, the disciplinary proceedings did not automatically lapse because they were not completed within one year. ***Prem Nath Bali v.***

[2] (2015) 7 SCC 291.

Registrar, High Court of Delhi,[3] stresses the need for disciplinary proceedings ordinarily to be completed within six months and, exceptionally, within one year. However, this cannot be read as an inflexible rule that every proceeding continuing beyond one year terminates automatically. This understanding was adopted by the Division Bench of this Court in ***Government of NCT of Delhi v. O.P. Sagar***.[4]

45. The communication dated 27th March, 2019, challenged in W.P.(C) 10478/2019, did not extend the suspension. It informed the School that no further extension had been approved and required expeditious completion of the proceedings. The challenge to that communication is therefore misconceived.

46. Rule 116(4) provides for payment of full salary, after adjustment of subsistence allowance, where the suspended employee is exonerated, from the date on which they were suspended.

47. The first proceeding ended in a minor penalty. The second proceeding has not attained legal finality. The claim that the whole period must immediately be treated as duty with full salary cannot therefore be accepted. The competent authority shall pass a separate and reasoned order on treatment of the suspension period after complying with the directions concerning the second proceeding. It shall examine:

(i) the period attributable to each proceeding;

(ii) whether and to what extent delay was attributable to the Petitioner or to the management;

(iii) whether the subsistence allowance was enhanced or reduced by a

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[3] (2015) 16 SCC 415.

[4] 2019 SCC OnLine Del 6696.

reasoned order after six months;

(iv) the outcome of the first proceeding; and

(v) the legal status and the eventual outcome of the second proceeding after retirement.

48. This decision shall be taken within twelve weeks from the date on which the Directorate determines whether the second proceeding lawfully survives the Petitioner's retirement. The reason is that treatment of the suspension period cannot be decided in isolation from the legal status and outcome of the proceeding for which the employee remained out of duty. If the proceeding cannot continue, or if no adverse consequence can lawfully follow after retirement, the authority must consider whether continued deprivation of full pay can still be justified under Rule 116. Conversely, if the proceeding validly survives, the authority may take its lawful outcome into account, but only by a speaking order applying the rule to the facts of this case. The prayer for compound interest at 18% is rejected. There is no contractual, statutory or equitable basis for such a claim; any interest on delayed admitted retiral dues is dealt with separately below.

W.P.(C) 958/2020 and non-supply of documents

49. W.P.(C) 958/2020 concerns the second disciplinary proceeding, founded on the alleged alteration of a leave application and the corresponding attendance entry. After the enquiry report, the Disciplinary Authority issued memorandum dated 28th September, 2019 proposing removal from service and calling for the Petitioner's representation. The challenge is therefore examined at the post-enquiry, pre-final-decision stage.

50. The Petitioner alleges that he was not supplied the attendance register for April, 2017 and the relevant leave records, although these documents

bear directly on the charge. The School disputes denial and states that the material was available. The original attendance register was later produced before this Court on 19th November, 2024.

51. The grievance cannot be accepted or rejected in the abstract. Non-supply of documents vitiates an enquiry only where the document was material or relied upon, reasonable access was denied, and prejudice is shown.[5] The objection must therefore be tested on materiality, reliance and prejudice.

52. Rule 120 reinforces that approach. Where a major penalty is proposed after enquiry, the Disciplinary Authority must consider the enquiry record, furnish the report, issue notice of the proposed action, consider the employee's representation and then place its tentative decision, with the relevant record, before the Director for prior approval. The process was therefore still open when this petition was filed.

53. The proper course is not to quash the enquiry at this stage, nor to foreclose the objection. The record shows that the Petitioner has already submitted representations seeking supply of the attendance register and leave records. He shall nevertheless be permitted to file a consolidated representation against the enquiry findings and the proposed penalty, reiterating, *inter alia*, his grievance regarding non-supply of the said documents.

54. The Disciplinary Authority shall decide that representation on merits. If it finds that any material or relied-upon document was withheld and that prejudice was caused, it shall adopt the corrective course permissible in law. If the objection is rejected, reasons shall be recorded.

55. At this stage, it is also relevant to take note of the Petitioner's superannuation on 31st December, 2025. The same does not, by itself, terminate a disciplinary proceeding instituted while the employee was in service, provided the applicable statutory or pensionary framework permits its continuation. The second proceeding, having commenced with the charge-sheet dated 14th December, 2018, may therefore be carried to its lawful conclusion, subject to the consequences permissible after retirement.

56. Thereafter, the record shall be placed before the Director in accordance with Rule 120, along with the representation, the Disciplinary Authority's findings and the proposed action. The Director shall consider the matter having regard to the Petitioner's retirement and the consequences now permissible in law. The exercise shall be completed within six months from submission of the consolidated representation.

57. W.P.(C) 958/2020 is disposed of in these terms. The Court has expressed no opinion on the charges, the enquiry findings, the alleged non-supply of documents, or the consequence that may lawfully follow after retirement.

Minor penalty and W.P.(C) 12339/2022

58. W.P.(C) 12339/2022 concerns the minor penalty of withholding two annual increments, which was ultimately directed to operate with effect from 1st July, 2019. The Petitioner also complains that six annual increments falling due between 2017 and 2022 were withheld. The *Amicus Curiae* has identified these as the two issues arising in the petition. He has expressed the view that the penalty, insofar as it was made effective from 1st July, 2019 by the communication dated 23rd August, 2019, operated retrospectively and

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[5] ***Chandrama Tewari v. UOI*** 1988 SCC OnLine SC 742.

was therefore impermissible. The *Amicus* has also observed that the record does not satisfactorily explain the withholding of all six increments.

59. Although Rule 120(3) provides a statutory appeal to the Tribunal against an order imposing a minor penalty, the Court does not consider it appropriate, at this stage, to relegate the Petitioner to that remedy. The petition has remained pending since 2022, the pleadings are complete, and the surviving questions concerning the increments and pay fixation are connected with the other service disputes being decided in this batch.

60. The Petitioner first contends that the disciplinary proceeding had lapsed because it was not concluded within one year. That submission has already been considered and rejected. The time taken to conclude a disciplinary proceeding does not, without more, extinguish the disciplinary jurisdiction upon expiry of one year. The penalty cannot therefore be set aside on that ground alone.

61. The objection concerning the date from which the penalty operated requires closer attention. Rule 117 classifies withholding of increments of pay as a minor penalty, while Rule 119 requires that the employee be informed of the proposed action and afforded an opportunity to represent before such penalty is imposed. The general principle that a disciplinary punishment cannot ordinarily be given retrospective effect so as to alter past service conditions, in the absence of statutory authority, is well settled. The present case, however, cannot be decided merely by comparing the date 1st July, 2019 with the communication dated 23rd August, 2019. The Disciplinary Committee had, on 13th September, 2018, recommended withholding of two annual increments with effect from 1st July, 2019. A memorandum dated 5th November, 2018 recorded the penalty with effect

from 1st August, 2019, and the date was corrected on 29th November, 2018 to 1st July, 2019. The Directorate thereafter, on 10th June, 2019, required that the Petitioner be afforded one further opportunity to represent against the same proposed penalty, again identifying 1st July, 2019 as its commencement date. The SMC approved the recommendation on 5th August, 2019, and the communication dated 23rd August, 2019 directed its implementation.

62. In this sequence, the communication dated 23rd August, 2019 cannot be viewed as an order which, for the first time, imposed a penalty and then carried it backwards to 1st July, 2019. The penalty, the period for which it was proposed to operate, and its commencement from 1st July, 2019 had formed part of the disciplinary process well before that date. The subsequent steps were taken after the Directorate required a further opportunity of representation to be afforded to the Petitioner. The Court therefore does not accept the contention that the penalty must be set aside, wholly or in part, merely because the communication directing its implementation was issued on 23rd August, 2019. The minor penalty shall consequently remain undisturbed on this ground.

63. As regards the six annual increments claimed by the Petitioner, the School states that the increments falling due in 2019, 2020, 2021 and 2022 have already been released. The remaining two increments, falling due on 1st July, 2017 and 1st July, 2018, were, as per the School, withheld on account of the pendency of the disciplinary proceeding and as approval of the Directorate was awaited. The School does not, however, rely upon any penalty operating against these two increments. Mere pendency of the disciplinary proceeding could not, by itself, arrest the accrual of otherwise

admissible annual increments. Withholding of increments is itself a minor penalty under Rule 117 and could not be imposed as an interim consequence of a disciplinary proceeding which had not culminated in a final order.

64. The increments due on 1st July, 2017 and 1st July, 2018 shall therefore be counted for the limited purpose of pay progression and subsequent pay fixation. This does not determine the salary payable for the suspension period, which shall abide by the separate decision on treatment of that period in W.P.(C) 10478/2019. Nor does it preclude any lawful consequence that may follow from the final decision in the second disciplinary proceeding, subject to the statutory framework applicable after superannuation.

65. The Directorate shall recompute the Petitioner's pay by taking into account the increments due on 1st July, 2017 and 1st July, 2018, the minor penalty operating from 1st July, 2019, and the subsequent increments otherwise admissible. A statement showing the basic pay, increments counted, period of penalty and resulting pay fixation up to retirement shall be furnished to the Petitioner within twelve weeks. The computation shall remain subject to the decision on the suspension period and any consequence emanating from the second disciplinary proceeding. W.P.(C) 12339/2022 is partly allowed in these terms.

<u>*Retiral benefits*</u>

66. The Petitioner retired on 31st December, 2025. The subsequent record shows that, by order dated 15th July, 2026, the Directorate sanctioned provisional pension of INR 40,600 per month with effect from 1st January, 2026, pending finalisation of the vigilance clearance and orders of the competent authority. The order follows the authorisation issued by the Pay and Accounts Officer on 19th June, 2026 and records that the provisional

pension would be adjusted against the final retirement benefits upon conclusion of the departmental proceeding.

67. Section 10(1) of the Delhi School Education Act, 1973 protects parity in matters of pay, pension, gratuity, provident fund and other prescribed benefits for employees of recognised private schools. Rule 126 further authorises the prescription of a detailed procedure for payment of pension and gratuity to employees of aided schools. The procedure framed under that Rule provides that employees of aided schools are entitled to pension and gratuity, with the approval of the competent authority, in accordance with the provisions applicable to corresponding categories of employees of the Delhi Administration.

68. In view of the pending second disciplinary proceeding, the Court does not consider it appropriate to direct release of final pension, gratuity or commutation at this stage. The pensionary framework invoked by the Directorate, that is Rule 69 of the CCS(Pension) Rules, 1972, permits provisional pension during the pendency of departmental or judicial proceedings and bars payment of gratuity until such proceedings conclude and final orders are issued, save where the applicable rule itself permits release. Commutation shall likewise abide by the applicable pension and commutation rules during the pendency of the proceeding.

69. The provisional pension already sanctioned shall therefore be disbursed, if not already being paid, together with the arrears admissible from 1st January, 2026, within eight weeks, subject to completion by the Petitioner of the formalities required for its payment. If the pensionable pay is altered pursuant to the pay fixation, increment or MACP exercise directed in this judgment, the provisional pension shall also be revised accordingly

and the resulting arrears shall be paid. Final pension, gratuity and commutation shall be dealt with upon conclusion of the pending disciplinary proceeding in accordance with the law applicable to the Petitioner.

70. Other retiral dues stand on their own statutory footing. They cannot be withheld merely because a disciplinary proceeding is pending unless the provision governing the particular benefit permits such withholding. The School and the Directorate shall, within eight weeks, release all admitted and undisputed retiral dues which are not lawfully liable to be withheld. If leave encashment, provident fund or any other component is retained, the competent authority shall communicate a reasoned decision identifying the provision which permits withholding and the facts attracting it. Where Rule 39(3) of the CCS (Leave) Rules, 1972 is applied, leave encashment may be withheld only if the competent authority forms the opinion contemplated by that Rule that money may become recoverable from the employee on conclusion of the proceedings.

71. The Petitioner shall cooperate in completion of the pensionary formalities and furnish the bank particulars, non-employment certificate, OTP, identification details, signatures or other information reasonably required for processing the amounts payable to him. No interest shall run for a period during which payment could not be processed solely because of his failure to complete a required formality. If an admitted and undisputed amount directed to be released under paragraphs 69 or 70 is not paid within the period stipulated despite completion of the requisite formalities, it shall carry simple interest at 6% per annum from expiry of that period until payment.

Directions

72. For the reasons stated above, the petitions are disposed of as follows:

(i) W.P.(C) 1767/2007 is partly allowed. The corrigendum dated 11th January, 2002 is set aside. The Petitioner's date of joining shall be treated as 2nd November, 2001 for service benefits. Salary prior to 8th January, 2002 shall be payable only for the period during which attendance or other official records establish that he actually worked. The declaration of surplus and the direction that salary be drawn from the adjusted School are upheld. The Petitioner shall be treated as notionally reabsorbed in DAV Senior Secondary School, Chitragupta Road with effect from 21st June, 2010 for the limited purposes of continuity and seniority, without any independent entitlement to back wages on that account. The prayer for rewriting the ACR for 2005-2006 is rejected.

(ii) W.P.(C) 9933/2015 is partly allowed. The speaking order dated 24th September, 2015 is set aside to the extent that it proceeds upon the premise that the Petitioner had already been absorbed under Hindu Shiksha Samiti without such absorption having been established in the manner discussed in this judgment. The prayers for absorption in a Government school and for direct promotion as Principal are rejected. The Petitioner's claim for notional consideration for promotion and for financial upgradation under the MACP Scheme shall be considered in accordance with the directions contained in this judgment.

(iii) W.P.(C) 6148/2017 and W.P.(C) 58/2018 are disposed of as infructuous insofar as they challenge the suspension and the preliminary or intermediate stages of the first disciplinary proceeding, those stages having been overtaken by subsequent events. The contention founded upon the references to 21st and 22nd April, 2017 is rejected. The minor penalty ultimately imposed in that proceeding has been considered separately in W.P.(C) 12339/2022.

(iv) W.P.(C) 7404/2018 is disposed of as infructuous insofar as it challenges continuation of the suspension. Any surviving grievance concerning access to documents forming part of the second disciplinary proceeding shall stand governed by the directions issued in W.P.(C) 958/2020.

(v) W.P.(C) 10478/2019 is partly allowed. The competent authority shall pass a reasoned order regarding treatment of the suspension period and the consequential pay and allowances in accordance with the directions contained in this judgment. The challenge to the communication dated 27th March, 2019 and the claim for automatic payment of full salary with compound interest are rejected.

(vi) W.P.(C) 958/2020 is disposed of in the terms indicated above. The Petitioner shall be permitted to submit, within four weeks from receipt of a copy of this judgment, a representation raising his objections to the enquiry findings and the proposed action, including the grievance concerning non-supply of the attendance register and leave records. The Disciplinary Authority shall consider those objections, including the effect, if any, of the alleged non-supply upon the enquiry findings, and shall record its decision in accordance with Rule 120. The disciplinary proceeding, having been instituted while the Petitioner was in service, does not stand extinguished by his superannuation and may be carried to its lawful conclusion. The record shall thereafter be placed before the Director in accordance with Rule 120, who shall consider the matter having regard to the Petitioner's superannuation and the law applicable to any consequence which may follow. The entire exercise shall be completed within the period stipulated in paragraph 56 above. The Court has expressed no opinion on the merits of the charges, the correctness of the enquiry findings, whether the alleged non-supply of any document caused prejudice to the Petitioner, or the nature of the consequence which may lawfully follow upon conclusion of the proceeding.

(vii) W.P.(C) 12339/2022 is partly allowed. The minor penalty of withholding two annual increments with effect from 1st July, 2019 is sustained. The increments falling due on 1st July, 2017 and 1st July, 2018 shall, however, be taken into account for the Petitioner's pay progression and subsequent pay fixation. The Directorate shall accordingly recompute the Petitioner's pay and furnish the statement of calculation in terms of paragraphs 65 above. The computation shall remain subject to the determination regarding the suspension period and any consequence which may lawfully follow from the second disciplinary proceeding.

(viii) The provisional pension sanctioned by order dated 15th July, 2026 shall be given effect to in terms of paragraphs 68 to 71. If not already disbursed, the provisional pension and arrears admissible from 1st January, 2026 shall be released within the period specified there, subject to completion of required formalities. It shall be revised, if required, upon any alteration of the Petitioner's pensionable pay pursuant to this judgment. Final pension, gratuity and commutation shall abide by the conclusion of the pending disciplinary proceeding and the applicable statutory framework. All other admitted and undisputed retiral dues not lawfully liable to be withheld shall be released within the period stipulated in paragraph 70; any retained component shall be supported by the reasoned decision contemplated therein.

73. The timelines fixed in this judgment shall run from the date on which a copy of this judgment is received by the authority concerned. Any period attributable exclusively to the Petitioner's failure to complete a required formality shall stand excluded while computing compliance with a direction dependent upon that formality.

74. The pending applications stand disposed of.

SANJEEV NARULA, J

AUGUST 4, 2026/ab