



2026:DHC:6468-DB



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

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Date of Decision:03.08.2026# **CNR No. DLHC010868092024**% **LPA 1172/2024 & CM APPL. 69694/2024****ARCHANA JAIN**

.....Appellant

Through: **Mr. Nilanjan Bose, Adv. (*Pro Bono*
DHCLSC).**

versus

DELHI TRANSCO LTD & ANR.

.....Respondents

Through: **Mr. Pankaj Vivek (through VC) &
Mr. Naveen Malik, Advs. for R-1.
Mrs. Avnish Ahlawat, Ms. Tania
Ahlawat, Mr. Nitesh Kumar Singh,
Ms. Aliza Alam & Mr. Mohnish
Sehrawat, Advs. for R-2/GNCTD.****CORAM:****HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE TEJAS KARIA****DEVENDRA KUMAR UPADHYAYA, CJ. (ORAL)**

1. The appellant, a teacher retired from a middle school run by the Delhi Transco Limited – respondent no.1, which is an electricity transmission company (State Transmission Utility), is in appeal before us challenging the order dated 31.08.2022 passed by learned Single Judge, whereby writ petition, being *W.P.(C) 5160/2014*, instituted by her seeking benefit of re-employment in the school up to the age of 62 years, has been dismissed.

2. The appellant was appointed as Trained Graduate Teacher (TGT),



Science in a school which was run earlier by Delhi Electricity Supply Undertaking (DESU). On constitution of Delhi Vidyut Board (DVB), the predecessor-in-interest of respondent no.1, the school where she was working was transferred to Delhi Vidyut Board and accordingly, her services were also transferred to the said school managed by Delhi Vidyut Board.

3. Later, the Delhi Vidyut Board was dissolved, and certain companies were constituted as a measure of electricity reforms, for different tasks relating to electricity. So far as transmission of electricity is concerned, Delhi Transco Limited – respondent no.1 was formed and the school earlier run by Delhi Vidyut Board stood transferred accordingly and it came within the folds of respondent no.1, whereupon the services of the appellant also got transferred to the school run and managed by respondent no.1.

4. The appellant was promoted as Headmistress on 31.08.2009 and on her attaining the age of 60 years, she was due to retire on 31.08.2012. However, she prosecuted her claim for being given re-employment till the age of 62 years in terms of certain circulars issued by the respondent no.1 but the said benefit was denied to her which impelled her to institute the underlying writ petition with the prayer to direct the respondents to re-employ her till she attains the age of 62 years and grant her all service benefits as if she continued in employment till 62 years of age. The writ petition has been dismissed by learned Single Judge by the impugned order, hence this appeal.

5. The Directorate of Education, Government of NCT of Delhi (DoE,



2026:DHC:6468-DB



GNCTD) issued a notification on 29.01.2007 providing therein that all retiring teachers up to PGT (Post Graduate Teacher) level shall be allowed automatic re-employment till they attain the age of 62 years subject to fitness and vigilance clearance. The said notification applied to the government teachers. In continuation of the notification dated 29.01.2007, the Directorate of Education, GNCTD issued an Order dated 28.02.2007 reiterating the provisions of the notification and providing therein the procedure by which a retiring teacher was to be granted the benefit of re-employment till he/she attains the age of 62 years.

6. The Office Order dated 31.07.2007/01.08.2007 was issued by the General Manager (Administration) of the respondent no.1 in pursuance of the notification dated 29.01.2007 and Order dated 28.02.2007 issued by the DoE, GNCTD. The said Office Order was issued as per approval of the Board of Directors of the respondent no.1. The Office Order dated 31.07.2007/01.08.2007 provided that automatic re-employment shall be allowed to the retired teachers of schools run by respondent no.1, beyond the age of 60 years, up to the age of 62 years subject to their physical fitness, professional fitness as well as satisfactory vigilance clearance.

7. On 26.05.2011, another Office Order was issued by respondent no.1 allegedly in partial modification of the Office Order 01.08.2007, whereby it was provided that automatic re-employment of retired teachers of the schools run by respondent no.1 shall be allowed to the teachers up to PGT level only beyond the age of 60 years up to the age of 62 years subject to physical fitness, professional fitness as well as satisfactory vigilance clearance. The only difference between the two Office Orders issued by



respondent no.1 in respect of automatic re-employment of retiring teachers working in the schools run by respondent no.1 was that the latter Office Order dated 26.05.2011 provided that such benefit shall be available to the teachers up to PGT level only, whereas the earlier Office Order dated 01.08.2007 did not contain the phrase “up to PGT level only”.

8. The appellant instituted an Original Application before the Central Administrative Tribunal, when the said benefit was denied to her, however, the said Original Application was dismissed by the Central Administrative Tribunal vide order dated 05.03.2014 on the ground that the school where she was teaching was not listed under Section 14 of the Administrative Tribunals Act, 1985, which led the appellant to institute the underlying writ petition.

9. The sole ground on which the appellant has been denied the benefit of re-employment up to the age of 62 years, is that the Office Order dated 26.05.2011 applied to the teachers up to PGT level only, which according to the respondent no.1 did not apply to a Headmistress, the post from which the appellant had retired on 31.08.2012 on her attaining the age of 60 years.

10. The reason given by respondent no. 1 denying appellant, the benefit of re-employment up to the age of 62 years, in our considered opinion, is not tenable for the following reasons:

a. The term “teacher” is defined in the Delhi School Education Act, 1973 (hereinafter referred to as the “School Education Act”), according to which, teacher includes head of school. Clause 2(w) of the School Education Act is extracted hereunder:



“2(w) “teacher” includes the Head of a school;”

Accordingly, since the appellant at the time she attained the age of 60 years was working on the post of Headmistress, as such she shall be included within the term “teacher” as defined in afore-quoted Section 2(w) of the School Education Act.

b. A Division Bench of this Court in a judgment dated 08.07.2011 rendered in W.P.(C) 4703/2011, **Dharam Singh v. The Chief Secretary & Ors.**, has considered the notification dated 29.01.2007 issued by the DoE, GNCTD, wherein the phrase, “retiring teachers up to PGT level” has been considered and it has been opined therein that in view of various judgments of this Court which had been affirmed up to the Supreme Court, it has been held that Headmistress of a municipal school seeking extension of service shall be entitled to such benefit which is available to a teacher. The Division Bench has also clearly held that merely by reason of promotion from the post, it does not mean that teacher ceases to be a teacher and, thus, it has been held that a Headmistress shall be entitled to extended service.

c. The Division Bench in **Dharam Singh (supra)** has relied upon an earlier Division Bench judgment in case of **Sheila Puri v. MCD, 1985 (9) DRJ 180**, which has been affirmed by Hon’ble Supreme Court by dismissing the Special Leave Petition in **Municipal Corporation Of Delhi v. Sheila Puri; AIR 1989 SC 356**.

d. The Division Bench in **Dharam Singh (supra)** has further observed that the basic principle is that in case the notification refers to automatic re-employment of a retired teacher up to PGT level, a teacher does not cease to be teacher merely because he or she also happens to hold



the post of a Vice-Principal or a Principal. The Division Bench, has, in the said judgment even reprimanded the officers of taking a view against the settled legal principle which resulted in denial of benefit to the eligible Principals or Vice-Principals, compelling them to approach the Court. The relevant extract of the judgment dated 08.07.2011 in ***Dharam Singh (supra)*** are extracted hereunder:

“The matter in issue is no more res integra in view of the various judgments of this Court, which have been affirmed right till the Supreme Court. A Division Bench of this Court in Sheila Puri v. MCD; 1985 (9) DRJ 180 dealt with the issue of a Headmistress of a municipal school seeking extension of service under a resolution in terms whereof benefit was made available of such extended service to a teacher. It was held that merely be reason of promotion from that post does not mean that the teacher ceases to be a teacher and thus was held entitled to the extended service. A special leave petition preferred against this order was dismissed by the Supreme Court in Municipal Corporation Of Delhi vs Sheila Puri; AIR 1989 SC 356.”

“The basic principle is that if the notification refers to automatic re-employment of a retiring teacher up to PGT level, the said teacher does not cease to be a teacher merely because he also happens to hold the post of a Vice Principal or a Principal. The irony of the matter is that despite the aforesaid settled legal position, officers of the respondents continue to take a decision like in the present case to deny the benefit compelling the parties to approach this, Court. A litigant has a right to agitate the matter in issue till the highest court, but once the legal principle is settled, the litigant is duty-bound to implement the same uniformly without compelling a citizen to approach the Court, spend money and further waste judicial time. It is more so for a public authority as otherwise it would be a contemptuous conduct.”

Accordingly, in view of the aforesaid Division Bench judgments in ***Dharam Singh (supra)*** and ***Sheila Puri (supra)***, the issue raised herein does not appear to be anymore *res integra*.

e. It is also noteworthy so far as the government schools are concerned, the GNCTD has issued an Order dated 27.01.2012 in compliance of the judgment in ***Dharam Singh (supra)***, whereby the benefit of re-employment of all Vice-Principals/Principals of government or government



aided schools, has been extended.

f. The argument made by learned counsel for the respondent no.1 is that the circular or notification issued by GNCTD will be applicable to the schools run by respondent no.1 not in its entirety, but only to the extent it is adopted by respondent no. 1, and that, since respondent no. 1 vide Office Order dated 26.05.2011 specifically provided that benefit of automatic re-employment will be available to the teachers of the schools run by the respondent no.1 to the teachers up to PGT level only and therefore, the heads of the schools are excluded from the said benefit. This argument is absolutely misconceived in view of the judgment of this Court in the case of **Dharam Singh (supra)**, where a provision akin to the provision contained in the Office Order dated 26.05.2011 issued by respondent no.1 was considered, and it was specifically laid down that merely because a teacher has assumed the office of Vice-Principal or Principal, right which would be otherwise available to teachers of re-employment up to the age of 60 years, does not get extinguished. Accordingly, the submission made in this regard on behalf of the respondent no.1 merits rejection and is hereby rejected.

g. The submission made on behalf of respondent no.1 to the effect that re-employment granted to another Headmistress, namely Smt. Narinder Kaur, was withdrawn by means of a separate Office Order dated 26.05.2011, also does not help the cause which is being pleaded on behalf of respondent no.1 for the reasons already given above and in view of the categorical finding recorded by the Division Bench of this Court in **Dharam Singh (supra)**, wherein it has clearly been held that benefit of re-employment will be available to the heads of the schools as well.

11. The learned Single Judge in the impugned order has taken a view that



2026:DHC:6468-DB



respondent took the decision in its discretion about the applicability of the notification issued by the GNCTD and therefore, the notification which has been issued by the respondent no.1 shall only govern the claim of the appellant for grant of benefit of re-employment. Learned Single Judge has also observed that the appellant does not have any absolute and direct right to be automatically re-employed by the respondent. The impugned order further states that the notification issued by Directorate of Education did not bind the managements of all the concerned schools to compulsorily and automatically re-employ retired teachers till they attain the age of 62 years and therefore stating the said ground the claim of the appellant was rejected.

In our considered opinion, the aforesaid reasoning given by learned Single Judge to defeat the claim of the appellant is not sustainable. It is not the question of automatic application of the notification issued by DoE, GNCTD to the schools run by respondent no.1 which is relevant. As a matter of fact, the question here is the interpretation of the notification dated 26.05.2011 issued by the respondent no.1 itself, which permitted the benefit of re-employment up to the age of 62 years only to the teachers up to PGT level, meaning thereby the said benefit according to respondent no.1 was not available to the head of the schools.

As already noticed above, the phraseology occurring in the Office Order dated 26.05.2011 issued by the respondent no.1 is akin to the language used in the notification dated 29.01.2007 issued by Directorate of Education, GNCTD which was discussed elaborately by the Division Bench of this Court in ***Dharam Singh (supra)***, wherein it has been unambiguously found that denying such benefit on the ground that the teacher concerned is working as Principal or Vice-Principal is erroneous. We, thus, are unable to



agree with the conclusion drawn by learned Single Judge in the impugned judgment and order dated 31.08.2022.

12. For the discussions made above, the appeal deserves to be allowed, which is accordingly allowed and the impugned judgment and order dated 31.08.2022 passed by learned Single Judge in *W.P.(C) 5160/2014* is hereby set aside.

13. However, we may also note that the appellant had retired on her attaining the age of 60 years way back on 31.08.2012. The period of two years to which she would be entitled to for her re-employment has also expired on 31.08.2014 and accordingly, on account of passage of time, the prayer made by the appellant needs to be molded.

14. Having observed as above, at the same time, we are of the opinion that on account of the illegal action on the part of the respondent no.1 the appellant was denied her lawful claim of re-employment up to the age of 62 years and accordingly, she needs to be compensated. We find it appropriate to award compensation to the appellant not only for the aforesaid reasons but also having regard to certain observations made by the Division Bench of this Court in *Dharam Singh (supra)*, wherein it has been recorded that, **“the irony of the matter is that despite the aforesaid settled legal position, officers of the respondent continue to take a decision like in the present case to deny the benefit compelling the parties to approach this Court. A litigant has a right to agitate the matter in issue till the highest court, but once the legal principle is settled, the litigant is duty bound to implement the same uniformly without compelling a citizen to approach the Court,**



2026:DHC:6468-DB



spend money and further waste judicial time. It is more so for a public authority as otherwise it would be a contemptuous conduct.”

15. Thus, in the facts and circumstances of the instant case, we find that ends of justice would be met if the respondent no.1 is directed to pay all the monetary benefits, which would have accrued to the appellant had she been re-employed for further period of two years after she attained the age of 60 years.

16. It is directed accordingly.

17. The respondent no.1 shall calculate the said amount along with simple interest at the rate of 6% per annum and pay the same to the appellant within a period of six weeks.

18. The appeal along with applications, if any, stands disposed of.

19. No order as to costs.

DEVENDRA KUMAR UPADHYAYA, CJ

TEJAS KARIA, J

AUGUST 03, 2026

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