



* IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: February 28, 2025

+ LPA 115/2017 & CM APPL. 5767/2017

NAND KISHOR

.....Appellant

Through: Appellant- in- person.

versus

THE MANAGING COMMITTEE OF RANI

DUTTA ARYA VIDYALAYA & ORS

.....Respondents

Through: Mr.Dinesh Agnani, Sr. Advocate with
Mr.Gaurav Bahl, Mr.Rahul Maurya and
Mr.Nitinijaya Chaudhry, Advocates for
R-1 & 2.

Mrs.Avnish Ahlawat with Mr.Nitesh
Kumar Singh, Ms.Laavanya Kaushik,
Ms.Aliza Alam and Mr.Mohnish
Sehrawat, Advocates for R-3 & 4.

Mr.Udit Malik, Ms.Rima Rao and
Ms.Palak Sharma, Advocates for
GNCTD.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

JUDGMENT

ANOOP KUMAR MENDIRATTA, J.

1. Appellant (Nand Kishor) has preferred the present intra-court appeal challenging the judgment dated 11.01.2017 passed in W.P.(C) Nos.20218-



19/2004, captioned '*The Managing Committee of Rani Dutta Arya Vidyalaya & Anr v. The Director of Education, Govt. of NCT of Delhi & Ors.*', whereby the learned Single Judge allowed the writ petition preferred on behalf of respondent No.1 herein, '**the Managing Committee of Rani Dutta Arya Vidyalaya**' and set aside the order of the Directorate of Education, Govt. of NCT of Delhi dated 15.12.2004, refusing to grant approval to resignation tendered by the appellant (Nand Kishor).

FACTUAL MATRIX

2. In brief, as per the case of the appellant, he had joined the services of respondent No.1 school on the post of Head Clerk on probation for a period of one year on 31.07.2001 and was confirmed after completion of probation period by the Managing Committee of the school in its meeting held on 21.09.2002, *w.e.f.* 01.08.2002. However, on raising voice against corruption in Arya Orphanage where several deaths took place, appellant was forced to resign on 15.03.2003. A letter dated 08.05.2003 was thereafter written by respondent No.1 school to the Deputy Director of Education, Govt. of NCT of Delhi, seeking permission for advertisement to the post of Head Clerk in view of resignation tendered by the appellant.

3. It is further the case of the appellant that he withdrew the resignation on 07.07.2003 which was submitted under duress and pressure. Further, the Director of Education instituted an inquiry in view of grievance raised by the appellant that the Managing Committee of the School/respondent No.1 had failed to seek approval of the Competent Authority i.e. Director of Education regarding acceptance of his resignation. A communication dated 15.12.2004 was thereafter issued by the Directorate of Education refusing to grant approval



to the resignation tendered by the appellant, since the provisions of Delhi School Education Rules, 1973 (hereinafter referred to as “DSE Rules”) had not been followed by respondent No.1. Further, respondent No.1 school was directed to allow the appellant- Nand Kishor to join the duty with immediate effect.

4. The W.P. (C) Nos.20218-19/2004, preferred on behalf of respondent No.1 school challenging the order dated 15.12.2004 passed by Director of Education was allowed by the learned Single Judge, which has now been challenged by the appellant by way of present intra court appeal.

SUBMISSIONS ON BEHALF OF THE APPELLANT

5. Appellant-in-person assailed the judgment passed by the learned Single Judge and submitted that the learned Single Judge failed to appreciate that Rule 114A of the DSE Rules mandates that resignation by an employee of a recognized private school must be accepted within 30 days of the receipt of resignation by the Managing Committee **with the approval of the Director**. He emphasized that since no such approval was sought by the respondent school within the stipulated period of 30 days of the resignation tendered by the appellant on 15.03.2003, the same is in the teeth of Rule 114A of the DSE Rules. Further, the Directorate of Education vide communication dated 15.12.2004 refused to grant the approval to resignation tendered by the appellant, which was submitted under duress.

The appellant further contended that approval of Director of Education is imperative and the legislative intent behind Rule 114A is to prevent undue pressure or coercion in obtaining resignations by the management of the school. In view of above, the failure to comply with the provisions of Rule 114A of



DSE Rules renders the resignation ineffective. He further argued that proviso to Rule 114A, which provides that if no approval is received within 30 days, then such approval would be deemed to have been received after the expiry of said period, is inapplicable in his case, since the respondent school failed to seek the explicit approval of the Director of Education for accepting the resignation vide communication dated 08.05.2003.

The appellant further urged that the learned Single Judge wrongly placed reliance upon *Smt. Lovika Jain v. The Principal, Delhi Public School* (2013) 205 DLT 306 and *Modern School v. Shashi Pal Sharma & Ors.* (2007) 8 SCC 540 and the findings are contrary to settled legal principles. He emphasized that the resignation dated 15.03.2003 was withdrawn on 07.07.2003, since the resignation was submitted under duress. Further, it was pointed out that the respondent school did not participate in the inquiry initiated by the Directorate of Education.

SUBMISSIONS ON BEHALF OF THE RESPONDENT SCHOOL

6. Learned senior counsel for respondent school supported the impugned judgment passed by the learned Single Judge and contended that due process had been followed on receiving the resignation dated 15.03.2003 by the appellant, which was never challenged prior to letter dated 07.07.2003 by the appellant. He emphasized that the resignation had been accepted by the Managing Committee in the meeting held on 29.03.2003 and thereupon a note was recorded by the Principal of the school on 02.04.2003 which duly notices that the 'acceptance of resignation' by the Managing Committee was communicated to the appellant. He emphasized that there is no bar in terms of Section 114A to accept the resignation prior to receipt of the approval of the



Director and the same may be granted even *ex-post facto* within 30 days of forwarding of the communication by the management of the school.

Learned counsel for respondent No.1 further submitted that as per proviso to Rule 114A, if no approval is received within 30 days then such approval is deemed to have been received after the expiry of such period. He pointed out that no communication was received from the Director of Education within 30 days of communication dated 08.05.2003 by the respondent school, and as such the approval is deemed to have been granted with reference to the resignation tendered by the appellant on 15.03.2003. He further argued that after expiry of the period of 30 days of receiving communication of acceptance of resignation by the school, the Director of Education becomes *functus officio* and could not have appointed an Inquiry Committee.

Reliance is further placed upon *Modern School v. Shashi Pal Sharma & Others* (supra) and *Anirudh Kumar Pandey v. Management of Modern Public School & Ors., LPA 620/2017 decided on 30.11.2017*.

ANALYSIS & FINDINGS

7. The grievance of the appellant is that the Managing Committee of the school/respondent No.1 ousted the appellant *w.e.f.* 01.07.2003 from the school without seeking any prior approval from the Director of Education, Government of NCT of Delhi, in terms of Rule 114A of DSE Rules, with reference to his resignation tendered on 15.03.2003 under duress, which was later on withdrawn on 07.07.2003. In a nutshell, the issue for consideration is, whether the resignation of the appellant from the school in terms of resignation letter dated 15.03.2003 is final and binding, as accepted by the management of the school vide minutes of meeting dated 29.03.2003 or the same could have been



withdrawn by the appellant on 07.07.2003 even after expiry of 30 days from communication dated 08.05.2003 by the respondent school to the Director of Education.

8. For the purpose of deciding the controversy, learned Single Judge proceeded on the assumption that the appellant was a confirmed employee of the respondent school though the same was disputed on behalf of respondent No.1. It was observed that the resignation tendered by the appellant vide letter dated 15.03.2003 was only disputed for the first time on 07.07.2003, claiming that the resignation was given under pressure and the same was much after the resignation was accepted by the Managing Committee on 29.03.2003. The withdrawal of resignation is stated to have been neither made within 30 days of submitting the resignation on 15.03.2003, nor within 30 days of communication by respondent No.1 to the Director of Education vide letter dated 08.05.2003. Accordingly, the learned Single Judge was of the opinion that the order passed by the Director of Education on 15.12.2004 refusing to grant the approval to resignation tendered by the appellant is bad in law.

9. Reverting to the facts of the case, the resignation letter tendered by the appellant on 15.03.2003 may be reproduced for reference:-

*"The Chairman
Rani Dutta Arya Vidyalaya
Pataudi House, Darya Ganj
New Delhi - 110 002*

Sir,

I was appointed as Head-Clerk in your School on 30th July, 2001 and was put on probation for period of one year. Later, my probation was extended by another year. I hereby tender my resignation from the post of Head Clerk and the same may please be accepted with immediate effect.



Yours faithfully,

Sd/- (Nand Kishore)
Head Clerk
Rani Dutta Arya Vidyalaya

Date : 15.3.2003”

10. On the face of record, the resignation letter is unconditional with a request to accept the same with immediate effect. The aforesaid resignation letter was thereafter considered and accepted in the meeting of the Managing Committee of the school held on 29.03.2003 and it was also decided that appellant may be asked to continue on his post till 30.06.2003, on which date his resignation would become effective.

11. An office note issued by the Principal of the school on 02.04.2003 further records the fact that Shri Nand Kishor (appellant) had been duly intimated about the said decision and asked to continue in the school till 30.06.2003, which the appellant had agreed upon.

12. Thereafter, vide letter dated 08.05.2003, a request was made by the respondent school to the concerned Deputy Director of Education informing that the resignation had been tendered by the appellant which was accepted by the Managing Committee on 29.03.2003 with a request to the appellant to continue to work on the said post till 30.06.2003. A request was further made seeking permission to advertise the post of Head Clerk for filling the same *w.e.f.* 01.07.2003. The said letter dated 08.05.2003 written on behalf of the respondent school to the Deputy Director of Education may be reproduced for reference:-

"RANI DUTTA ARYA VIDYALAYA
(MANAGED BY ARYA ORPHANAGE AND RECOGNISED & AIDED BY
THE GOVT. OF NCT OF DELHI)
1488, PATAUDI HOUSE, DARYA GANJ, NEW DELHI-110002



08.05.2003

*The Deputy Director of Education,
Central District, Zone 27,
Jhandewalan,
New Delhi*

Sub: Resignation rendered by Sh. Nand Kishor, Head Clerk of our school.

Dear Madam,

Shri Nand Kishor, Head Clerk of our School who was on probation, submitted his resignation from his post. The Managing Committee of the School in its meeting held on 29th March, 2003 accepted the said resignation but asked Sh. Nand Kishor to continue to work on the said post till 30.06.2003. This is for your kind information and record. It is requested that the school be permitted to advertise the post of Head Clerk so that after selection, the same can be filled w.e.f. 01.07.2003.

Thanking you,

*Yours faithfully,
for Rani Dutta Arya Vidyalaya
Sd/-
(Achla Chaudhary)
Manager"*

13. Perusal of aforesaid documents, amply proves that an unconditional letter of resignation was tendered by the appellant on 15.03.2003, which was duly accepted by the Managing Committee of the School on 29.03.2003. After acceptance, a communication was duly forwarded to the Director of Education informing about the resignation tendered by the appellant and seeking permission to fill the vacancy w.e.f. 01.07.2003. It is pertinent to observe that at no point of time after tendering of resignation till its acceptance by the Managing Committee on 29.03.2003 and till forwarding of letter dated 08.05.2003 to Deputy Director of Education, appellant raised any grievance that resignation was given under pressure. Since no communication was forwarded



by the Director of Education within 30 days of letter dated 08.05.2003, the resignation is deemed to have been approved under Rule 114A of the DSE Rules. It is only on 07.07.2003 that the appellant for the first time claimed to have written a letter to the respondent school stating that resignation had not been willingly given. A comprehensive reading of the correspondence clearly reflects that resignation tendered by the appellant as accepted by the Managing Committee was duly intimated to the Director of Education seeking approval of the competent authority with a request for filling the post falling vacant on resignation by the appellant.

Apparently, the stand taken on behalf of the appellant that resignation was not voluntary, is an afterthought. The resignation could not have been withdrawn after the same was accepted by the Managing Committee of the school on 29.03.2003, followed by expiry of 30 days from forwarding of letter dated 08.05.2003 by the respondent school to Director of Education. There does not appear to be any reason to infer that order passed by the learned Single Judge is contrary to Rule 114A of the DSE Rules. Undoubtedly, the legislative intent behind the enactment of Rule 114A of the DSE Rules is to rule out possibility of undue pressure or coercion in obtaining resignations thereby requiring approval of the competent authority but the facts of the instant case reflect that resignation by the appellant vide letter dated 15.03.2003 was voluntary and was not withdrawn within the stipulated period, prior to acceptance.

14. Proposition is also squarely covered by *Modern School v. Shashi Pal Sharma & Others* (supra). In the aforesaid case, the first respondent Shashi Pal Sharma was employed as a Sanskrit teacher at the school and tendered his



resignation citing personal and urgent domestic issues on March 17, 1997. The school, vide letter dated March 19, 1997, forwarded the resignation to the Director of Education for approval. However, as no response was received from the Director of Education within the stipulated period of 30 days, the school proceeded to accept the resignation on May 13, 1997 and informed the respondent that he would be relieved on June 17, 1997 after serving the required notice period. Respondent claimed that he had withdrawn his resignation on March 18, 1997 and submitted supporting documents, including a copy of letter allegedly withdrawing the resignation and a telegram dated May 14, 1997, asserting that his resignation had already been revoked. The Education Officer also raised concerns that the Managing Committee had not been informed of the withdrawal before approving the resignation. However, the School contested the claim, on the ground that no such letter of withdrawal was ever received by the school on March 18, 1997, and that the purported withdrawal letter was fabricated.

A writ petition was thereafter preferred on behalf of the respondent teacher questioning the acceptance of resignation by the school, which was dismissed by the learned Single Judge, since the original school records did not reflect any entry in the dispatch register corresponding to the alleged withdrawal of resignation dated March 18, 1997. The Court held that the claim of the respondent of withdrawing the resignation was an afterthought and was not supported by evidence. Dissatisfied, the respondent filed an intra-court appeal before the Division Bench of the High Court, which was allowed vide judgment dated December 13, 2005, thereby setting aside the decision of the learned Single Judge.



Hon'ble Supreme Court in proceedings taken by the school upheld the findings of the learned Single Judge, holding that once the resignation had been validly accepted, the respondent could not withdraw it unilaterally. The Court emphasized that under Rule 114A, if no response is received from the Director within 30 days, approval is deemed to have been granted. It was further noticed that respondent failed to provide credible evidence that his resignation had been withdrawn before acceptance.

It was further observed that the terms and conditions of the service are governed by the statute and the statutory Rules. As acceptance of resignation of the first respondent was communicated to him within a period of 30 days, the same would take its effect in terms thereof. Further, the Director of Education acted in terms of representation by first respondent that he had withdrawn his resignation on 18.03.1997 which was factually incorrect. Further, the competent authority was obligated in law to communicate its decision to the school authority within a period of 30 days from the date of communication of the letter of the first respondent.

15. Reference may also be made to the judgment passed by Division Bench of this Court in *Anirudh Kumar Pandey v. Management of Modern Public School & Ors.* (supra). The appellant therein was employed as TGT (Music) and was handed over a memo with reference to charge for outraging the modesty of girl students and misbehaving with lady teachers on 09.09.2000. However, instead of submitting the explanation, the appellant submitted his resignation on 12.09.2000 resigning from service with immediate effect. The resignation was accepted by the Managing Committee of respondent school on the same date and the same was sent for approval of Director of Education on



15.09.2000, who accorded the approval on 15.11.2000. The appellant was dismissed by the school w.e.f. 12.09.2000. Appellant challenged the termination of service, before the Delhi School Tribunal, which noticed that the issue relates to date of acceptance of resignation i.e. whether it was accepted on 12.09.2000 or 15.11.2000 and whether the appellant was forced to resign on 12.09.2000. The Tribunal was of the opinion that the appellant had withdrawn his resignation before the same was approved by DoE in terms of Rule 114A of the DSE Rules and accordingly directed to reinstate the appellant. In the writ petition preferred by the respondent school, the learned Single Judge set aside the judgment passed by the Tribunal and held that in view of Rule 114A, the resignation dated 12.09.2000 became final on being accepted by the Managing Committee on 12.09.2000 itself and thereafter, could not have been withdrawn vide letter dated 17.09.2000. Further, there could not have been any reason for denial of approval of resignation by the Director of Education, which would relate back to 12.09.2000, when the resignation was accepted by the Managing Committee of the school.

In an intra-court appeal preferred on behalf of appellant teacher, it was held that once a letter of resignation is accepted it cannot be withdrawn. Further, in terms of Rule 114A, 30 days is the outer limit to the Managing Committee to accept such resignation and the same does not mean that the Managing Committee has to defer its decision for 30 days till the approval of the Director is received. The Rule does not require that the resignation has to be accepted '*with the prior approval*' but simply states that the approval of the Director has to be sought. The approval therefore has to be post-acceptance of resignation letter and the act of Managing Committee holds good till the DoE disapproves



the action. It was further observed that the said interpretation of the Rule is ratified by the deeming provision contained in the proviso to the said Rule, which states that if no communication is received from DoE within 30 days, the approval shall be deemed to have been accorded. Relying upon *North Zone Cultural Centre and Another v. Vedpathi Dinesh Kumar*, (2003) 5 SCC 455, it was further observed that the resignation of an employee becomes effective on acceptance even if the acceptance is not communicated to him. The Division Bench accordingly upheld the judgment passed by the learned Single Judge.

16. In the light of the discussion in preceding paragraphs and settled position of law, we are of the considered opinion that the resignation tendered on 15.03.2003 could not have been withdrawn after the same was accepted by the Managing Committee on 29.03.2003. Nothing has been brought on record to presume that the appellant was pressurized and coerced to submit his resignation prior to acceptance of the same by the Managing Committee of the school on 29.03.2003. The approval of the Director of Education is deemed, since no communication was received within 30 days of communication dated 08.05.2003 by the management of the school. Even otherwise there does not appear to be any valid ground to substantiate the findings of the Director of Education to refuse the grant of approval to the resignation submitted by the appellant. For the foregoing reasons, the order passed by the learned Single Judge setting aside the order of Director of Education does not call for any interference.

In the facts and circumstances, we are unable to accept the contentions raised on behalf of the appellant that the resignation tendered vide letter dated



15.03.2003 did not have a binding effect and could be withdrawn vide letter dated 07.07.2003.

The appeal is accordingly dismissed. Pending applications, if any, also stand disposed of.

ANOOP KUMAR MENDIRATTA, J.

VIBHU BAKHRU, J.

FEBRUARY 28, 2025/v/sd