



\$~21

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

Date of decision: 05.12.2025

+ W.P.(C) 16853/2025
SHARMILA

.....Petitioner

Through: Mr.Samarth Luthra, Adv.
(through VC)

versus

MUNICIPAL CORPORATION OF DELHI & ORS.

.....Respondents

Through: Ms.Namrata Mukim, SC with
Ms.Niharika Singh and
Ms.Sakshi Saxena, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MR. JUSTICE SAURABH BANERJEE

NAVIN CHAWLA, J. (ORAL)

CM APPL. 69246/2025

1. Allowed, subject to all just exceptions.

CM APPL. 69245/2025

2. This application has been filed by the petitioner seeking permission to bring on record the Show Cause Notice dated 22.10.2025 issued by the respondents.

3. For the reasons stated in the application, the same is allowed. The Show Cause Notice is taken on record.

W.P.(C) 16853/2025 & CM APPLs. 69247-48/2025

4. This petition has been filed, challenging the Order dated 09.10.2025 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as 'Tribunal') in



O.A. No.4140/2024 titled ***Sharmila v. Municipal Corporation of Delhi & Ors.***, allowing the O.A. filed by the petitioner herein with the following directions:

“11. In view of what has been detailed hereinabove, the OA is disposed of with the following directions:-

(i) The stand of the respondents that the applicant is fallen under the category of deemed resignation as per Rule 12(2) of the CCS (Leave) Rules, 1972 since 12.09.2010 is quashed and set aside.

(ii) A show cause notice shall be issued to the applicant by the respondents, in view of proviso to Rule 12(2) of CCS (Leave) Rules 1972, to give a reasonable opportunity to the applicant to explain the reasons for her absence from the duty within a period of thirty days from receipt of a certified copy of this order.

(iii) The applicant shall submit her reply to the said Show Cause Notice before the respondents within a period of 15 days from the date of receipt of the said Show Cause Notice.

(iv) The respondent Authority shall issue a reasoned and speaking order as per Rule 12(2) of the CCS (Leave) Rules, 1972 within a period of thirty days from the date of receipt of said reply of the applicant in this regard.

(v) The respondent authority shall also take a conscious decision on the basis of their administrative prudence on an application dated 28.12.2023 submitted by the applicant to allow her to join duty to the post in light of the office order dated 27.01.2023 issued by the MCD. This decision should also be taken within a period of thirty days from the date of the decision taken under Rule 12(2) of the CCS (Leave) Rules, 1972.

(vi) Both the respondents and the applicant are directed to adhere to the time lines, as indicated above.”



5. Also challenged in the petition is the Show Cause Notice dated 22.10.2025 issued by the respondents by invoking Rule 12(2) of the Central Civil Services (Leave) Rules, 1972 in pursuance of the said Impugned Order.

6. The learned counsel for the petitioner submits that the limited grievance of the petitioner is that the learned Tribunal did not issue a direction for the respondents to allow the petitioner to re-join the duties as mandated in the Office Order dated 27.01.2023. He submits that the said Office Order stipulates that in cases where the employee/teacher has proceeded on leave without information or prior sanction but reports back for duty, such teacher/employee of the education department must be allowed to join duty without any delay and in case it is so warranted, appropriate departmental action may be initiated thereafter. He submits that, therefore, the learned Tribunal should have allowed the petitioner to join back the duty notwithstanding the departmental action that has been directed by the Impugned Order passed by the learned Tribunal.

7. We have considered the submissions made by the learned counsel for the petitioner, however, find no merit in the same.

8. Admittedly, the petitioner was unauthorizedly absent from duty since 31.01.2007, i.e., from the date her Extraordinary Leave ended. Not only that, thereafter the respondents also issued a Show Cause Notice dated 23.10.2009 to her seeking an explanation *qua* her absence from the said date, which, upon receipt, is claimed by her to have been replied by her *vide* response dated 05.11.2009. As such, the Office Order dated 27.01.2023 sought to be relied upon by the learned



counsel for the petitioner, is not applicable. Even otherwise, the said Office Order is subject to prevalent and guiding CCS (CCA) Rules as applicable to the petitioner.

9. The facts involved also disclose that the petitioner sent a Legal Notice only on 06.02.2020 enquiring about her status of employment as also seeking to re-join to the respondents.

10. Lastly, it is not in dispute that the respondents have in compliance of the impugned order also issued a fresh Show Cause Notice dated 22.10.2025 to the petitioner, which, though has been received, but has not been responded to till date by the petitioner.

11. In view thereof, the present petition is premature and any challenge to the Notice dated 22.10.2025 by way of the present petition, *per se*, is also not maintainable.

12. Though the learned Tribunal in its Impugned Order finds that the case of deemed resignation as set up by the respondents cannot be accepted, it has issued the above directions to consider the huge period of absence from duty of the petitioner in accordance with law. We find no infirmity in the said directions of the learned Tribunal.

13. Accordingly, we find no merit in the present petition. The same along with the pending applications is, accordingly, dismissed.

NAVIN CHAWLA, J

SAURABH BANERJEE, J

DECEMBER 5, 2025/ns/ik