

* IN THE HIGH COURT OF DELHI AT NEW DELHI

WP (C) No.8020/2010

Date of Decision: November 30, 2010

AIR FORCE SENIOR SECONDARY SCHOOL Petitioner
through Mr. A.K.Bhardwaj, Advocate

versus

MS. PREETI TOMAR & ANR Respondents
through Mr. R.K.Saini, Advocate with
Mr. Sitab Ali Chaudhary, Advocate for
respondent No.1.
Ms. Purnima Maheshwari, Advocate for
respondent No.2.

CORAM:
HON'BLE MISS JUSTICE REKHA SHARMA

1. Whether the reporters of local papers may be allowed to see the judgment? No
2. To be referred to the reporter or not? No
3. Whether the judgment should be reported in the 'Digest'? No

REKHA SHARMA, J. (ORAL)

Caveat No.270/2010

The caveator has been heard.

The caveat is discharged.

WP(C) No.8020/2010

Admittedly, the petitioner vide order dated April 01, 2008 appointed respondent No.1 as PGT (Biology) initially on probation for a period of one year from the date of her joining. Admittedly again, after the expiry of the period of one year, neither her probation period was extended nor was she confirmed on the post. However, she continued

to work on the post till April 30, 2009, on which date she was served with a termination order stating that her services were no longer required as the experience certificate produced by her at the time of interview was found to be forged after verification.

Aggrieved by the aforesaid order of termination, respondent No.1 preferred an appeal to the Delhi School Tribunal under Section 8(3) of the Delhi School Education Act, 1973. The Tribunal vide order dated July 30, 2010 has held in favour of respondent No.1 observing that, *"by stating that the Appellant produced 'forged certificate', the employer made the letter stigmatic. Obviously such an order could not be passed without holding a departmental inquiry."* The Tribunal, thus, has further held that the services of respondent No.1 were terminated illegally, arbitrarily and for no fault of hers. Consequently, a direction has been issued to the petitioner to reinstate respondent No.1 into service along with full back-wages.

The present writ-petition has been filed by the petitioner against the aforesaid order of the Tribunal.

The question which arises in the present writ-petition had arisen before me in an earlier writ-petition in the case of *"Air Force Senior Secondary School versus Mrs. Promila Kumar & Another"* being WP(C) No.6662/2010. The facts of that case were similar to the facts of the present case, as in that case also the termination letter was similarly worded. While disposing of that writ-petition on November 11, 2010, I held as under:-

"Undoubtedly, the aforesaid order is not a simplicitor order of termination. It accuses respondent No.1 of having produced a forged experience certificate. Hence, it carries a taint with it. It is true that no inquiry is required to

be held before terminating the services of an employee on probation but such an employee can also not be visited with an order which is stigmatic. Since respondent No.1 continued to be on probation in the absence of an order confirming her on the post, the petitioner could easily do away with her services by merely stating that the same were no longer required, but the use of additional words in her termination letter that "her services were being terminated because of her having produced a forged experience certificate" do carry a stigma and it is these words which make the termination letter bad in law. Even the Division Bench while reversing the order of the learned Single Judge in the case of Veena Sharma (supra) has held that, "As we have not concurred with the finding that the employee was a confirmed employee, the conclusion arrived at as an inevitable corollary relating to the violation of the doctrine of natural justice is also set aside, for there is no stigma attached to the order of termination." The words "**for there is no stigma attached to the order of termination**" used by the Division Bench are significant. They imply that if the order of termination carries stigma, then the termination can be held to be bad."

It is not disputed either by the learned counsel for the petitioner or by the learned counsels for respondents No.1 & 2 that the present case is fully covered by the aforesaid judgment of this Court. Accordingly, I set-aside the order of termination dated April 30, 2009. The writ-petition is dismissed with liberty to the petitioner to take appropriate action against respondent No.1 as per law, if so advised.

REKHA SHARMA, J.

NOVEMBER 30, 2010
ka