

BEFORE SH. SATINDER KUMAR GAUTAM, PRESIDING OFFICER,  
DELHI SCHOOL TRIBUNAL,  
PATRACHAR VIDYALYA COMPLEX, LUCKNOW ROAD, DELHI -  
110054

Date of Institution: 01.06.2016  
Date of Disposal :26.12.2025

APPEAL NO. 48 of 2016

Alpana Kohli  
Aged about 50 years,  
D/o Late Shri K.K.N. Malik,  
R/o 18/16, West Patel Nagar,  
New Delhi-110008

(Through : Mr. Sourabh Malhotra & Mr. Alok Kumar, Advocates)  
...Appellant

Versus

1. Director of Education  
Directorate of Education,  
Govt. of NCT of Delhi  
Old Secretariat Building,  
Civil Lines, Delhi-110054  
....Respondents no.1

(Through : Ms. Bindiya Savara, Advocate)

2. S.D. Public School  
East Patel Nagar,  
New Delhi-110008  
Email: sdpsepn@gmail.com  
....Respondents no.2

(Through : Mr. Pramod Gupta, Advocate)

**Abbreviations:**

DSEA&R	Delhi School Education Act and Rules
DAC	Department Action Committee
R-1	Director of Education (DOE)
R-2	S.D. Public School
E.O./ I.O	Enquiry Officer/ Inquiry Officer

*Satinder Kumar*  
26/12/2025  
1/59

P.O. Presiding Officer  
C.O./D.A./Petitioner Appellant  
PNJ Principle of Natural Justice

## JUDGMENT

### Factual Matrix as per the Appellant

1. By filing of this appeal, the appellant assails the termination order of 'removal from service' vide dated 15.10.2015 issued by the Respondent no. 2 school (hereinafter referred to as respondent school/ R-2) by which the appellant have been removed from the service on the basis of enquiry report dated 04.09.2015, which is communicated vide Department Action Committee (hereinafter referred as DAC) letter dated 22.09.2015 issued in the departmental proceedings against the appellant herein in the charge sheet dated 23.02.2013 which are alleged to be highly arbitrary, illegal and issued with a pre-determined. The appellant was originally suspended vide order dated 03.10.2012 which was challenged before the Hon'ble High Court in Writ Petition (C) 6429/2013 same was disposed of vide order dated 28.01.2014 whereby directed the respondent school to reinstate the appellant with full salary during the pendency of the disciplinary proceedings. The appellant was specifically granted liberty to challenge any finding against her in the disciplinary proceedings.

2. It is also alleged by appellant that the disciplinary proceedings was completely one-sided against the appellant. The charges framed against the appellant was made by the Head of the School and School Headmistress. All the witnesses were teachers, subordinate to them, no

*Sathnam Kumar*  
26/12/2015  
2/59

independent witness was examined by the Enquiry Officer. The entire record was fabricated against the appellant rendered blameless services as a teacher for 21 years long service record in her credit.

3. The appellant with charge no. 2 in the charge sheet dated 23.02.2013 alleged to have threatened the Head of the school on dire consequences in the presence of CBSE officials in the Principal's Office. However, not a single official of CBSE was examined by the Enquiry Officer. Similarly, no independent witnesses have been examined in respect any of the charges against the appellant. The entire enquiry proceedings relied on material and evidence fabricated at the instance of the head of the school and headmistress. The appellant was unable to defend herself against the establishment, as such the enquiry officer has given a enquiry report against her. On 19.04.2016 in a Writ Petition (Civil) 3511/2016 whereas the appellant prayed for the quashing the inquiry report dated 04.09.2015 and also set aside the order of removal from service dated 15.10.2015 and to direct the respondent no. 2 school to reinstate with entire salary and other benefits. The said Writ Petition was disposed of by Hon'ble High Court vide order dated 27.04.2016 with the observation as follows:-

*"As prayed, the petition as well as application are dismissed as withdrawn. However, it is made clear that in case the petitioner prefers an appeal under section 8 (3) of the Delhi School Education Act and Rules, 1973 and application for condonation of delay, the same will be considered in accordance with law."*

*Satinder Kumar*  
26/2/2016

4. It is also alleged by appellant that the various memos issued to the appellant are vague and baseless with the object to remove her from service. The memo dated 03.10.2012 does not even make any reference to the incident in the article of charge no. 1 and 2. The suspension order is silent about the filing of FIR and even after lapse of three years, the said FIR has not been pursued. The appellant made clear that the FIR was false one by using the false documents in order to falsely implicate the appellant and remove her from service. The Police found no substance in the said FIR. The evidence given by Ms. Urmila Dewan and Mrs. Sunita Chaddha against the appellant herself recognize her inferior status from the manner in which she had responded. The charges are nothing but a subterfuge to denied the appellant, her hard earned post retirement benefits. Had she been allowed to resign from the school or in the alternative, take voluntary retirement. However, it was not to be, instead appellant after having 21 year of loyal service had been humiliated and removed from the service. Thus, denied her legitimate post retirement benefits. The appellant would have entitled to pension, gratuity and provident fund as retirement benefits which have been denied after order of removal from service. Appellant has also alleged lose around eight years of her service before she reach the age of superannuation, which is violation of her fundamental right under Article 14 and Article 21 of the Constitution of India. The entire proceedings are in violation of principal of natural justice, unfair and suffer from bias. Since, the enquiry officer has not examined any independent and material witnesses to prove the charges thereby rendering the entire disciplinary proceedings vitiated. Therefore

Satinder Kumar  
2012/2013

prayed for reinstatement with back wages and all other consequential benefits.

Reply cum argument of Respondent no.1 (Director of Education)

5. After issue notice of the appeal, the Respondent no. 1, Director of Education (herein referred as DOE) denied all the contentions and the plea raised by the appellant as such prayed that the present appeal is liable to be dismissed as the entire enquiry proceedings was conducted by the respondent no. 2 as well as order of dismissal passed by the Departmental Action Committee within the Rules and Regulations of Delhi School Education Act & Rules, 1973. The present appeal pertains to the Respondent no. 2 and the DOE have no role in day to day affairs of the R-2 School.

6. The appellant was removed from the service on 15.10.2015 vide order issued by the Manager of the school, which has been imposed after due inquiry conducted in accordance with Rule 118 & 120 of the DSEA&R, 1973. The plea of the appellant in terms of the animosity and displeasure of two teachers cannot be accepted as they are solely responsible to create harm to her, of termination of service. It seems to be very personal allegations without providing any significant evidence, there is no proof of any personal animosity. On the basis of a long continuous service without receiving a memo in her previous years of job would not be confined enough to rely as the appellant will not commit wrong in future.

*Sudhakar K*  
26/12/2025

7. It is further submitted that all the allegations mentioned in memorandum were not directly observed by the Directorate of Education hence it is impossible to justify and categorize its observations which happened in close premise of the school of R-2. As much as in concern to unauthorized absent from duties without intimation or approval of the leave from school authorities/HOS may be considered as gross negligence as well as dereliction of duty on the part of appellant. This act of appellant is not only harming the studies of students may also spoil the atmosphere and discipline of the School.

8. Non-acceptance of the memo and non-replying the concerns could be considered as misconduct on the part of appellant and obviously such a situation will lead to issuance of several memos on various dates. Being a responsible teacher to the checked answer sheets of students must be returned to the authority within the time limit, so that examination results could be finalized and the same is necessary for maintaining discipline and decorum of the institution.

9. In order to make a fair enquiry the suspension of the appellant from the service, is legal as per rules. The constitution of the disciplinary proceedings against the appellant under rule 118 of DSEA&R, 1973 is legal and valid.

10. In the Writ Petition no. 6429/2013 vide order dated 28.01.2014, the Hon'ble High Court was properly implemented where by the appellant was continued in services to the respondent no. 2 school. The

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entire process of enquiry was conducted in accordance with the rules and regulations and there is no violation of principle of natural justice at all as the copies of the documents and the proceedings were served to the appellant as such prayed that the appeal of the appellant is without any cause of action against the DOE, as such same is liable to be dismissed against the R-1 (DOE).

Contention/ Reply of Respondent no. 2 School

11. The respondent school has also filed reply to the appeal and written synopsis whereas it is vehemently denying the contentions raised by the appellant. The appellant has failed to establish any willful and deliberate violation of principal of natural justice and DSEA&R, 1973 rules and regulations in the inquiry proceedings. The entire appeal has not pleaded or established any legal proposition to support her contentions. It is superfluous based on vague and baseless factual allegations which are not germane for the adjudication of the present appeal and they are not relevant for the reliefs claimed by the appellant. Same are baseless and have no merits which is an abuse of the process of law. The appellant tried to misuse the provision of law and failed to establish **the rule 120 (2) DSEA&R, 1973** or principal of natural justice.

12. It is denied that the appellant was awarded a promotion for her hard work; commitment and having unblemished career of 21 years, though, it contrary, the appellant from time to time has misbehaved, rude and use abusive language with various school officials. The appellant unnecessarily tried to drag the respondent school in issue which now stand

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26/12/2016  
7/59

settled and the same will look into the present appeal. The appellant never made any efforts to return the answer sheets to someone in a position of responsibility.

13. It is further submitted that the Hon'ble High Court vide order dated 28.01.2014 has kept the order of suspension of appellant in abeyance till the conclusion of the enquiry and the appellant would be entitled to full salary subject to final orders passed in the disciplinary proceedings. There is no need to produce CBSE officials. The head of the school Ms. Urmila Dewan and Head Mistress Mrs. Sunita Chadha also filed a written complaint dated 03.10.2012 against the appellant in the Police Station, Patel Nagar, New Delhi, informing that the appellant has threatened to kill them. The appellant has also incited her daughter to commit suicide and put the blame on the head of the school and headmistress of the school and also made sure that they will be in jail for this incident. The evidence of Ms. Urmila Dewan and Mrs. Sunita Chadha is fully credible. Both are well respected ladies and because of family compulsion did not pursue the matter further before the criminal court but that does not absolve the liability of the appellant. The Departmental Proceedings are independent of criminal proceedings, can always be pursued and therefore prayed to dismiss the appeal with exemplary cost.

#### Rejoinder to the reply of the Respondents

14. The rejoinder to the reply of the Respondent no.1 filed whereas denied the averment in the reply as well as reaffirm the contention raised in the appeal.

*Satinder Kumar*  
28/12/2015

15. After completion of the pleadings of both the parties, they also filed the written synopsis and relied upon the judgment of the Hon'ble High Court & Apex Court.

Having heard the arguments and gone through the material on record, written synopsis as well as judgments relied by Ld. Counsels for the parties.

**Bone of Contention of the appellant**

(I). Among the many relied contentions revised by appellant assailing the enquiry proceedings and consecutive enquiry report and major penalty, relied upon the judgment titled ***Union of India v. K.V. Laxman (2016) 13 SCC 124*** and further argued that the Delhi School Education Act, 1973 provided statutory appeal under section 8 (3) and clearly gives the Tribunal the powers of a Court of Appeal under the Civil Procedure Code, 1908 and under section 11 (6) of Delhi School Education Act, 1973.

(II). The three main grounds on which the termination of the Mrs. Alpana Kohli is illegal and unconstitutional which are as follows:-

**(1) Violation of principal of natural justice**

- (i) The memo of charge dated 23.02.2013 and the appellant gave her comprehensive reply dated 14.03.2013 traversing her complete case even though

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she has not been served with annexure. Her reply was not considered by the enquiry officer in his final report.

- (ii) No step was taken under section 155 Cr.PC for pursue the investigations to the police. The judgment of *Kunwar Singh v. State (2007) CrLJ 1364* and *Brij Lal Bhar v. State 2006 (4) ALJ 73* held that the private complaint can also pursue the FIR relating to the commission of non-bailable offence.
- (iii) The letter/ memos dated 10.10.2012 and 12.10.2012 make any reference to such a major incident which warranted the removal from service of an experienced teacher who had worked for 21 years without any blemish.
- (iv) There is no mention of the reasons of suspension in the memo dated 03.10.2012 such as the incident must have found on 01.10.2012.
- (v) The said memo's regarding non return of the answer sheets which have been duly replied dated 14.03.2013 in attention was drawn to the Tribunal to the letter dated 29.04.2013.
- (vi) In the order sheet dated 04.04.2014 it has been reflected that all the documents have been supplied to the appellant and vide dated 18.09.2014 a specific query as to whether she has received all the documents. She merely said she agrees to receive them, meaning

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26/12/2015

thereby that they had not been served on her till that date.

- (vii) On 07.10.2014 she was asked to inspect the document which appear from the order sheet dated 29.11.2014 itself and some of the documents were not available. She was being reinstated by the order of the Hon'ble High Court even though she was subject to harassment almost on daily basis even her salary was not paid, she was a single woman with a teenage daughter.
- (viii) She has not informed the date of hearing before the enquiry officer, she was given a school duty to perform and was informed during recess about the hearing. In this regard refer to letter dated 30.04.2014 requesting for payment of salary for previous month. Letter dated 05.07.2014 stated her grievance regarding the leave and for appointment of enquiry officer from DOE. The letter dated 08.07.2014 whereas appellant reiterated the letter dated 05.07.2014. In letter dated 22.07.2014 appellant categorically stated she was not informed about the date of enquiry proceedings. Vide letter dated 07.10.2014, whereby the appellant stated her grievance of unfair enquiry proceedings. Letter dated 05.12.2014 she stated non acceptance of leave application. Vide letter dated 13.12.2014, whereby, the appellant recorded her request for want of fair proceedings and

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26/12/2025*

letter dated 26.12.2014 appellant stated grievance against the unnecessary harassment.

(ix) The appellant refuted the charges made against her with reasons vide reply dated 14.03.2013, which was never considered or even referred to anywhere in the enquiry report.

(x) The incident dated 01.10.2012 has been categorically denied in the said written reply, appellant give a comprehensive rebuttal of the charges and further complained that the document refer to and relied upon in the memorandum dated 23.02.2013 has not been supplied to her. The same complaint was interalia made by the appellant on 29.04.2014.

**(2) Charges are vague without any material particulars.**

While listing out of the document as the management wanted to rely upon to prove their charges against the appellant. List of six documents was furnished but none of them were actually supplied. It is settled proposition of law that the charge has to be specific and must furnish all material particulars. But all the charges are vague and appellant's confusion is clearly reflected in her said letter dated 14.03.2013 and letter dated 29.04.2013.

**(3) No independent and available witness has been examined to prove charge no. 1.**

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26/12/2015

There are many teachers and officials of CBSE were present at the principal's office at the time of alleged incident took place and in the list of witnesses many of the teachers have been arrayed as witness. However, none have been examined in support of the management case. The enquiry officer in his report has uncritically and injudiciously referred only to the statement made in the documents S1 and S2, which are written, unverified reports made by the alleged victim teacher Alpa Mathur to the Manager and the police respectively. In her testimony this witness Alpa Mathur did not name any of the teachers but only the office superintendent and UDC as the witnessed and the incident against the appellant, slapping the said Alpa Mathur. The benefit of the said contradiction should go to the appellant. But these witnesses were not examined who are alleged to be witnesses of the incident of slapping. They considered that there is no case made out against the appellant, on the contrary Alpa Mathur has breached the rules.

(III). The Charge no. 2 is wholly void.

- (i) The evidence of Ms. Urmila Dewan, MW2 and Smt. Sunita Chadha, MW3 exposes the complete travesty of justice and how the entire enquiry proceedings were conducted in a totally biased and one sided manner. The evidence of Sunita Chaddha is incomplete and cannot be looked into and the allegation against the appellant is not proved from the evidence of Alpa Mathur or Urmila Dewan.

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26/2/2015

- (ii) The appellant has no experience of how to conduct her defence. She was intimidated into silence by disallowing questions and cutting short her cross examination of the alleged victim Alpa Mathur, Urmila Dewan and Sunita Chadha.
- (iii) The Enquiry Officer merely relied upon the complaint and the FIR filed by the said two witnesses, both of which are not substantive evidence but self serving one side version of the case. One incident is supposed to have happened in front of the CBSE officers according to the statement of charges. None of these officers were called as witnesses. Even the teachers arrayed as witnesses as per the said document, were not examined.
- (iv) As such its made clear of undue influence by the senior headmistress and the vice-principal and the junior teachers had remained mute spectators. At least six witnesses have been cited. However, only three witnesses were examined but no reasons of non-examination of these witnesses have been brought on record. It is further argued that the reliance has been placed on the FIR and the complaints of the two witnesses examined which is not a circumstantial evidence.

**Circumstantial evidence which supports the appellant's case.**

16. It is argued by the counsel of appellant that such an incident had indeed happened, then it would have been prominently mentioned in the

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many memos which were issued to the appellant after the date of alleged incident dated 01.10.2012. The said letter memos are referred but has not mentioned the alleged incident dated 01.10.2012, which clearly indicated that the complaint and the FIRs were fabricated documents.

17. **The charge no. 3** related to the non-return of the answer sheets. At the relevant period, the suspension order had already become operational and the school management had given clear instructions to the staff members that the appellant should not be allowed to enter the school premises. The allegations to this effect have been categorically refuted in her defence in the letter dated 14.03.2014.

18. **The charge no. 4** was that the appellant was in the habit of absenting herself from work without permission, not sending any leave letter. It was not proved. This charge was rejected even by the enquiry officer.

Appellant prayed that the impugned order of termination is baseless without any basis and one sided, clearly showing undue influence and bias and in contravention of the principles of natural justice. As such the order dated 15.10.2015 for removal from the service is liable to be set aside and appropriate order passed to reinstate with full back wages and seniority.

**Bone of contentions cum arguments of the Respondent no. 2**

19. Ld. Counsel for the respondent no.2 (herein after referred as R-2 school) controverted the contention raised by the counsel for appellant and

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26/12/2015  
15/59

whereas submitted this Hon'ble Tribunal would not become an Appellate Authority against the order of unaided private school, as the same has not been contemplated under section 8 r/w Rule 120 of DSEA&R, 1973. The reply of the appellant have been considered by the Departmental Action Committee (herein after called as DAC) in its meeting dated 28.03.2013 and the reference to this effect has also been made which was declared to be unsatisfactory reply found.

20. It is further argued by the Ld. Counsel of R-2 that the appellant is giving misleading impression to the Hon'ble Tribunal as if the school had lodged a FIR against appellant and thereafter failed to pursue the case in the present matter. The complaint/FIR has been lodged by Alpa Mathur in her personal capacity. Thus, it is a private complaint and it is for the complainant Ms. Alpa Mathur to pursue it further or not. But that does not in any way take away the right of the school to prosecute the complaint made to school authorities, whereas Ms. Alpa Mathur had reported the incident of slapping by appellant. Thus non-pursuing of FIR by complainant in personal capacity can in no manner come in the way of prosecuting appellant for her misconduct in the school premises, whereas she had slapped another teacher. Moreover, non pursuing of complaint does not dilute the school's duty to take action in the event of indiscipline in its school premises.

21. The argument of appellant that circumstances improbably the occurrence of slapping is highly absurd and not tenable in disciplinary proceedings. In a criminal case where the proof has to be beyond reasonable doubt and in disciplinary proceedings, strict rules of Indian

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Evidence Act 1872 do not apply, only the preponderance of probabilities is required to be proved which also supported with the judgment of **General manager (Operations) State Bank of India Vs. R. Periyasamy (2015) 3 SCC 101 (Para 10-11)**, wherein it was observed that "Disciplinary authority is expected to prove the charges on the preponderance of probabilities and not proof beyond reasonable doubt."

In another case title as **ITDC Vs. S.K Roy 140 (2007) DLT 336 (Para 28-31)** wherein it was held that "Sufficiency of evidence before the Inquiry Officer is beyond the scrutiny of the tribunal."

22. Further there is no need for any corroborative evidence as Ms. Alpa Mathur, who was slapped by appellant, has deposed about the incident of slapping herself. The complainant had categorically referred to the incident of slapping in clear terms in the letter dated 01.10.2012 as Exhibit S1.

23. As regards, non supply of documents, appellant's letter dated 29.04.2013 asking for documents from the Inquiry Officer, which have been supplied to the appellant. Further, contention of appellant that she merely received the documents but has not served with them is an unfruitful attempt to twist words in order to mislead.

24. It is a baseless contention of appellant and factually incorrect. averment of appellant is vague and unsubstantiated. The Respondent School as no intention to interfere with her personal life and appellant's

Sd/-  
26/2/2015

17/59

contention of being harassed by school is completely false and misplaced. Appellant has already been paid all her dues and is misleading this Tribunal by making false and unsubstantiated averments w.r.t. her salary, to divert the attention of this Tribunal from the principle issue, which is the slapping of an innocent teacher by appellant.

25. It is further argued by the Ld. Counsel of R-2 that the inquiry proceedings were held after school hours and if proceeding was during school hours, the arrangement was done accordingly. The DOE letter dated 26.07.2014 wherein the inquiry officer has agreed to give another opportunity to appellant for submission of her speaking medical certificate. Vide letter dated 07.10.2014 appellant inspected all documents as annexures and Charge Sheet. Letter dated 05.12.2014 for non acceptance of her leave applications are not subject matter of the disciplinary proceedings dated 12.12.2014 cross examination of Alpa Mathur by the Charged officer comprised of 20 questions and went on for three hours. Appellant had enough time for the cross examine. Hence, once the cross examination was concluded, appellant as an afterthought cannot seek reopening of cross examination and cannot examine Alpa Mathur again as per her own whims and fancies. Vide letter dated 13.12.2014 for further cross examination of Alpa Mathur was not being considered.

26. DOE letter dated 26.12.2014, appellant/Charged officer shows her non-cooperation, as she left the room where enquiry proceedings were taking place and did not turn up for cross examination of MW2, even after being called twice by the Inquiry Officer. Vide letter dated 30.12.2014

*Satinder Kumar*  
26/12/2015

18/59

appellant shows her non cooperation as she refused to attend her own enquiry proceedings and further refused to participate in the inquiry proceedings dated 26.12.2014 sent to her, not only through speed post but also through special messenger. Vide letter dated 07.01.2015, the appellant did not turn up to join the proceedings and refused to take letter dated 18.12.2014 sent by the inquiry officer personally through the school's peon. DOE letter dated 17.03.2015, chief and cross examination of MW2, Ms.Urmila Dewan, HOS, but the appellant was not in a mood to cross examine. Vide letter dated 19.03.2015, cross examination of MW2 Urmila Dewan, HOS. Chief and cross examination of MW3 Sunita Chadha, HM, appellant left the inquiry office blaming inquiry officer and presenting officer are biased against her.

27. The reliance has been placed to this effect **Board of Directors, Himachal Pradesh Transport Corporation Vs. K.C. Rahi (Para 7-8)** wherein it is observed that "*non-participation in inquiry proceedings waives the right to raise the plea of violation of principal of natural justice.*"

28. It is further argued that the allegation of appellant with respect to the non-consideration of her reply dated 14.03.2013, is repetitive in nature and counter to the same has already been given to the appellant. The appellant during the course of arguments, has only read Annexure I, i.e., Statement of Article of Charges to argue that the charges are vague and without any material particulars, whereas appellant has failed to understand that the detailed imputations of misconduct are contained in Annexure II of the charge-sheet, wherein, the detailed account of incidents and narration

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of charges has been given. Therefore, it is baseless to say that the charges are vague and are without any particulars. Furthermore, it has already been shown in these submissions that all the documents produced in inquiry proceedings were supplied to appellant. The MW2 and MW3 has duly examined by the presenting officer. It was on account of appellant's own misconduct, non cooperation and flimsy attitude throughout the proceedings that cross examination of MW2 was delayed and MW3 was not done. As it is apparent from the perusal of the daily order sheets dated 26.12.2014, 30.12.2014, 17.03.2015 and 19.03.2015. Since appellant herself had stopped participating in the Inquiry Proceedings, she thereafter cannot claim that no cross-examination of MW2 and MW3 was done.

29. It is further reiterated that the witnesses were not examined as the appellant was not cooperating in the disciplinary proceedings and hardly had any interest in participating in the inquiry proceedings. There was no need to produce any CBSE officials as the concerned witnesses i.e. MW2 and MW3 were already examined. Moreover, complainant's testimony with respect to the incident in clear terms is eye-witness testimony, to prove that the incident had actually taken place and the same remains unrebutted in her cross-examination as there is no scope of any undue influence either of the witnesses who were already examined and their respective statements have been recorded in support of the Charge Sheet.

30. Appellant can neither dictate the terms, as to how the findings in the disciplinary proceedings are to be arrived at nor can she reject the findings of the inquiry officer to her own whims and fancies, without any

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26/12/2015

reasonable justification whatsoever FIR by complainant was made by her in her private capacity, and the same does not restrict the respondent school to look into the misdemeanor of its employees and conducting disciplinary proceedings against the employee at fault. Thus, FIR by Complainant has no bearing on findings of inquiry officer.

31. It is further argued that the appellant cannot be allowed to take benefit of her own wrong. Once appellant by her own non cooperative attitude and by using unparliamentary language in the disciplinary proceedings and leaving the proceedings in between, showed her lack of interest towards the proceedings. Management therefore is under no obligation to adduce any further evidence, as the charges against the appellant were fully established by way of testimony of complainant herself. Thus, there is no need for any further corroboration. More so, as has already been stated earlier evidence in disciplinary proceedings is to be proved on ground of 'preponderance of probabilities' and not 'beyond reasonable doubt'. Appellant instead has not led any evidence or adduced any material in support of her defence whatsoever.

32. So far as, non return of the answer-sheets whereby appellant has given an explanation without any tangible evidence whatsoever. Memos dated 04.10.2012, 06.10.2012, 11.10.2012 and 12.10.2012, reminding appellant to submit the answer sheets, clearly shows that appellant was given answer sheets for evaluation but she failed to return the same, due to her irresponsible behavior.

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33. It is also argued by respondent school' Counsel that the charge no. 4 is concerned to the inquiry officer never rejected the said charge and in fact after taking into consideration all her leaves and to held it to be partially proved and the appellant tried to conceal material facts and shows her malafide intention to cover up her misdemeanor of insulting and slapping to innocent teacher.

34. In the last but not least argued that the appellant in her entire written submissions has not been able to show any violation of Rule 120 of DSEA&R 1973 or principle of natural justice, on the grounds of which interference with the judicial proceedings is permissible in law. No material evidence has been relied upon by the appellant which can substantiate her case. In the aforesaid circumstances, wherein no legal issue has been argued or conveyed by appellant which has the potential to dislodge the inquiry proceedings, the present appeal is liable to be dismiss and this Hon'ble Tribunal is not required to interfere with termination order of appellant dated 15.10.2015.

35. As the disciplinary proceedings is no longer *res integra* and the same has been settled in a catena of judgments of the Hon'ble Apex Court, wherein it has been categorically observed that the scope for interference by the Ld. Tribunal in matters pertaining to Disciplinary Inquiry is a very limited sphere and Tribunal in its power of judicial review does not act as appellate authority to re-appreciate the evidence and to arrive as its own independent findings on the evidence.

Sd/-  
26/12/2016

36. In this regard the respondent school relies on the following case law and judgments:-

- (i) ***Apparel Export Promotion Council vs. A.K Chopra (1999) 1 SCC 759***
- (ii) ***Union of India vs. Parma Nanda (1989) 2 SCC 177***
- (iii) ***BC Chaturvedi vs. union of India AIR 1996 SC 484***
- (iv) ***Tota Ram vs. Union of India (2007) 14 SCC 801***
- (v) ***R.S. Saini vs. State of Punjab & Ors. (1999) 8 SCC 90.***

Having Consider the rival contentions, judgement cited and written synopsis as well as material on record and relevant provision of law and act.

37. Both the parties filed the written submissions whereas reiterating the content of the pleading. Apart from the judgment as reflected above. The appellant alleged that there is a violation of principle of natural justice since the appellant refuted the charge with reply dated 14.03.2013 which was never been considered or even refer in the inquiry report. Though the alleged incident on 01.10.2012 has been categorically denied since the charge officer had neither picked a fight with any of the teaching staff nor misbehave with anyone or threaten anyone since she was not physically fit to pick up fight with anyone since crippled in right legs with both bones of lower and upper right leg in a very bad condition which required to be operated upon by inserting steel rods. She was unaware of any complaint lodged against her in the police station. The police staff never came and made any inquiry from her in this regard. **Secondly**, the allegations made

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23 / 59

against the appellant are vague. Six documents as per the list of documents sought to have been supplied which have never been supplied to the appellant. Another proposition of law that charges has to be specific and must be based on material particular.

38. The appellant contention clearly reflected in the letters dated 14.03.202013 and 29.04.2013. Apart from that there is no independent available witness was examine to prove the charge no. 1. The inquiry officer in his report has without any lapse and unjudiciously refer only to the statement made in the document S1 and S2 wherein written document unverified report made by the alleged victim teacher Alpa Mathur to the Manager and the police respectively. Alpa Mathur in her deposition did not name the presence of any teacher with time of incident but only give the description of the Superintendent and UDC as having witness of the incident of slapping but both the witnesses not forward for their examination. The testimony of witnesses examine having major contradiction.

39. As regard to charge no. 2, the evidence MW-1 Alpa Mathur, MW-2 Ms. Urmil Dewan and MW3 Smt. Sunita Chadha. Two witnesses cross examined. The MW-3 Sunita Chadha was not examined as CO left the inquiry proceeding in between by shouting and behaving in rowdy manner.

40. It is alleged that the entire enquiry proceedings were conducted in a totally biased manner and one sided manner. C.O. was intimidated into silence by disallowing question and cutting short her cross examination of

*Sathish Kumar*  
26/2/2016

24/59

the alleged victim Alpa Mathur, Urmil Dewan and Sunita Chadha. The only evidence relied upon was the 'complaint' and the FIR filed by the two witnesses namely MW2 & MW3 before the Enquiry officer. Though the incidence happened in front of the CBSE officers and other person according to the statement of charges and deposition of MW's but none of them were called and examine as witness. Even the several teachers arrayed in the list of witnesses as per annexed but no reason specified for their non-examination. It shows of undue influence by the senior official of the Respondent school. The junior teachers had remained mute spectators and they were not summon to examine nor PO has given any statement to drop them. Even E.O. has not taken any basis to summon them.

41. So far as alleged FIR relied upon by the management could not be proved as a substantial piece of evidence. So called NCR (Non-cognizable report) was never been brought by summoning to police record nor any statement of victim or the injured recorded by the Police. Even no outcome of alleged FIR was brought on record though the inquiry officer opined that the said FIR is a conclusively proved to prove the charges which reflect the illegality of E.O. and shown to prove the biasness of E.O. against the appellant.

Such an incident had indeed if happened, then it would have been prominently mentioned in the many memos which were issued to the appellant after the date of the alleged incident dated 01.10.2012 but none of the memos were ever mentioned the detail of alleged incidence even in the suspension order of 2012 which clearly indicates that the complaint and the FIR, which were not prove in accordance with law. It is clearly

*Satish Kumar*  
26/2/2015

25/59

instructed to the staff members that the appellant should not be allowed to enter into school premises. Though the allegations were clearly refuted and put forth in her defence letter dated 14.03.2014. So far as charge no. 3 related to non return of the answer sheets as per suspension letter, the appellant was not allowed to enter the school premises. The allegations had categorically denied and CO had put her defence in said letter dated 14.03.2014, which has not be taken into account nor consider or refer in Enquiry report.

42. Charge no. 4 of pertaining to habit of absenting herself from work without permission or sending any leave letter which is not proved as per the enquiry report. Therefore, it is clearly prove that the charge no. 4 is false and even the Enquiry officer could not sustain it.

43. The R-2 has also repeated contention though the written submission whereby stated that the entire proceeding were followed with the principle of natural justice as well as DSEAR, 1973. The appellant has choose not to participate in the inquiry proceedings after being cross examined two witness and left the inquiry proceedings and allegedly misbehaved with the inquiry officer. There is a limited scope with this tribunal U/s 11(6) against the order passed by management of unaided private school as the same has not been contemplated U/s 8 and U/s 120 of DSEAR 1973. The reply dated 14.03.2013 has been considered by DAC in its meeting dated 28.03.2013 which were declined as unsatisfactory. The FIR has been lodged by the Alpa Mathur in her personal capacity. It is a private complaint for the complainant to the pursue its or not. Moreover,

*Satinder Kumar*  
28/12/2025

non pursuing of the complaint does not dilute the school duty to take action on the event of discipline on school premises. The argument of the appellant that the circumstances, incident of slapping as highly absurd and not tenable in the disciplinary proceedings. The Alpa Mathur herself deposed about the incident of slapping. Further for non-supplying of the document the appellant merely stated that she was received the document but was not served with them is an unfruitful attempt to twist words in order to mislead the tribunal.

44. The appellant has paid all her due. The inquiry was held after the school hours. Whenever the opportunity was given to the appellant, same was exceeded subject to terms and condition. The appellant inspected all the documents annexed. The non-acceptance of the leave application and the letter dated 05.12.2014 is not the subject matter of the disciplinary proceedings. The charge officer shows non-cooperation as she left the room where the inquiry proceeding taken place and did not cross examined the witness no. 2 even being called twice by the IO. Letter dated 30.12.2014 shows non-cooperation further as she refused to attend enquiry proceedings and further refused to participate in the inquiry proceedings vide dated 26.12.2014 even message was sent to her, not only through speed post but also through messenger. As per proceedings dated 07.01.2015, appellant did not turn up to attend the proceedings and refused to take letter dated 18.12.2014 sent by IO personally through school's peon.

*Saithan Kumar*  
26/12/2015

45. On 17.03.2015 matter listed for cross examination of MW2 and MW3. The appellant did not cross examine MW2 and MW3. CO did not cross examined MW2 Urmil Dewan (HOS) on 19.03.2015. Appellant left the inquiry proceeding by blaming IO and PO are biased against her. There is no cross examine of MW 3 Ms. Sunita Chadha since the CO left the enquiry proceeding and MW3 examination in chief recorded in absence of CO. The Enquiry proceeding was continue in absence of CO and directed to PO to submit written brief within 10 days also supply soft copy on e-mail of CO, on 19.03.2015 MW2 Urmil Dewan in term of S-3 (1-10-12) and MW3 Sunita Chadha were present for cross examination of CO in term of Exhibit S-5 (1-10-2012 on Ex. S5). The cross of MW-2 was delayed and cross of MW-3 was not done. The charges in the disciplinary proceeding is to be proved beyond preponderance of probabilities and not beyond all reasonable doubt. The appellant has not lead any evidence nor produce any material in support of her defence whatsoever. The appellant has to be submit the answer sheets which was given for evaluation but she failed to return the same.

46. As per the inquiry proceedings, the DAC minutes of the meeting and the management committee meeting document place on record annexure II i.e. statement of imputation of misconduct or misbehavior in support of charges framed against Ms. Alpana Kohli TGT English are as under:

**Article 1:** Ms Alpana Kohli, while working as TGT (English) in this school. misbehaved with Teacher Ms Alpa Mathur. PGT (Bio) on

*Satish Mathur*  
26/2/2015  
28/59

01.10.2012, when the CBSE team came for enquiry of certain matter. At the time when CBSE committee was leaving the Principal office, Ms Alpana Kohli, picked up quarrel with Ms Alpa Mathur, PGI (Bio), who is also in charge of conducting (C. While quarreling with Ms Alpa Mathur. Ms Alpana Kohli slapped on the face of Ms Alpa Mathur and physically pushed her, took off her spectacles and in the process the spectacles broke. This was highly unbecoming of a teacher and this incident took place in front of many teachers. Enraged by her act Ms Alpa Mathur lodged a complaint of her physical attack in the Police Station, Patel Nagar and subsequently an FIR was lodged vide no. DD No. 25 B. The behavior of Ms Alpana Kohli, TGT English (under Suspension), is against the code of conduct as mentioned in chapter IX. Rule 123 (1)(b)(xviii)(xvi) of DSEAR 1973.

**Article 2:** Ms Alpana Kohli, while working as TGT – (English), on 01.10.2012 at about, 4:00 pm, also abused other teachers and threatened them to dire consequences. The aggrieved teacher namely Ms Urmil Dewan and Ms Sunita Ghadha, have submitted a complaint in Police Station as they felt their physical safety was threatened. This happened in front of CBSE officials when they were sitting in Principal's office. This is unbecoming of a teacher picking up quarrel and shouting and creating ugly scene in the school premises, her behavior has created a great embarrassment to the management and thereby she committed violation of code of conduct of Rule 123 (1)(b)(xviii) DSEAR 1973.

*Satinder Kumar*  
26/12/2025

**Article 3:** Ms Alpana Kohli, while working as TGT (English). There were constant complaints reported about her negligence towards her duties.

a) She was given the answer sheets of 1st term exam of classes V C. V D. VI B. VIC & VI D for evaluation but she has not returned the answer sheets duly evaluated inspite of many reminders sent to her dated 04.10.12. 06.10.12. 10.10.12, 11.10.12 & 12.10.12.

b) Further there were number of complaints received in PTM on 07.09.12 against Ms. Alpana Kohli, for not checking the copies periodically, non completion of syllabus In spite of issuing a memorandum to her for her inability and apathy in performing her duties, there was no improvement in her performance subsequently. Thereby she is committing violation of Rule 123 (a) (i) DSEAR 1973.

c) Ms Alpana Kohli, was in the habit of remain absent. thereby causing loss of studies to children. She remained absent without permission on many dates during the year 2012. By her constant absent without leave or proper permission it causes great difficulty and embarrassment to the school management, inspite of verbal and written memorandum she continued to play truant. Thereby she proves herself unbecoming of a teacher. Which causing loss of studies to the children and this habit of remaining absent without permission is a violation of code of conduct as per Rule 123 (1)(vii) DSEAR 1973.

*Satinder Kaur*  
20/12/2025

Issued by the Chairman of the Disciplinary committee alongwith list of documents as Annexure III which are under:-

1. Complaint by Ms Alpa Mathur. PGT Bio, vide letter dated 01 10 2012.
2. FIR lodged on 02.10.2012 by Ms Alpa Mathur, PGT (Bio) in Police Station, Patel Nagar
3. Complaint by Ms Urmila Dewan & Ms Sunita Chadha on 01.10.2012.
4. Complaint lodged on 02.10.2012 by Ms Urmila Dewan & Ms Sunita Chadha.
5. Memos
6. Minutes of Managing Committee meeting dated 03.10.12, 25.10.12 and 31.01.13.

The witnesses as shown as per the Annexure IV are

- |                       |                |
|-----------------------|----------------|
| 1. Ms Urmil Dewan     | Vice Principal |
| 2. Ms Sunita Chadha   | H.M.           |
| 3. Ms Alpa Mathur     | PGT-Bio        |
| 4. Ms Rita Sachdeva   | Office Supdt.  |
| 5. Ms Uma Arora       | UDC            |
| 6. Ms Anupama Jain    | LDC            |
| 7. Ms Rashmi Dua      | TGT - English  |
| 8. Ms Bhawna Bisht    | TGT Social Sc. |
| 9. Ms Ritu Sharma     | TGT - English  |
| 10. Ms Baljeet Kaur   | TGT-Social Sc. |
| 11. Mr Mastan Singh   | Lab Assistant  |
| 12. Ms Rachna Chichra | PGT-English    |
| 13. Ms Reema Almadi   | Asst. Tr.      |
| 14. Ms Shalini Uppal  | PGT English    |
| 15. Ms Shalini Malik  | PGT English    |

47. The memorandum issued by the Chairman of Disciplinary Authority alleging Annexure I; Annexure II; Annexure III and IV and directed

*Satinder Singh*  
26/12/2015

to submit reply of memorandum and also stated whether she desired to be heard in person. She is informed that an enquiry proceeding held only in respect of those articles of charges which are not admitted. If failed to appear in person before the enquiry committee or otherwise fail or refuse to comply with the provision of Rule 120 of DSEAR or other direction issued in pursuance of above said rule, the disciplinary authority may hold the enquiry against her ex-parte. Then on e report vide NCR no. 1775/ 2012 on 02.10.2012 P.S. Patel Nagar, vide complaint by Alpa Mathur alleging that:

".....अक्षता कोहली 10TH में दो विषयों में फेल हो गई थी। जि जाच करने के लिए उसके माता पिता ने CBSE मे शिकायत की हुई थी। जिसकी जाच करने के लिए CBSE की TEAM हमारे स्कूल में आई हुई थी। अक्षता कोहली की मां अलपना कोहली भी हमारे स्कूल में ही अध्यापक है। आज दिनांक 1.10.12 को अक्षता कोहली व उन अलपना कोहली व पिता जी दीपक कोहली भी जांच TEAM की जांच के दौरान हजरि स्कूल आये थे। CBSE की टीम जांच करके जाना चली गई तो मैं समय करीब 4.40 बजे दिन मैं रिस्पसन के पास खड़ी हुई थी कि अलपना कोहली W/O दीपक कोहलो पता उपरोक्त न थप्पड मारा तो मेरा चश्मा गिर गया अलपना कोहली ने मेरा चश्मा उठाकर तोड़ दिया और मेरे साथ गाली गलोच की मुझे धक्का मारा। अलपना कोहली ने मुझे थप्पड मारा व धता मारकर चोट पहुंचाई है। उसके खिलाफ कानूनी कार्यवाही की जावे....."

On the basis of the FIR, the enquiry was conducted by ASI on the basis of the complaint lodged by ASI Ashok Kumar Duty officer of Patel Nagar, vide U/s 323, 427 IPC, DD no. 29 A dated 01.10.2012 was lodged computerized. There was no medical examination of the complainant nor the investigation officer has examined any witness of the incident or has visited to the place of incident nor any outcome of this complaint was brought on record. It also reported in the complaint

*Satish Kumar*  
28/12/2012

by the Alpa Mathur refer to the Manager that the incident of slap was took place at 04:30 pm in the presence of the CBSE official. But there was no date as alleged in the said complaint and the FIR lodged dated 01.10.2012 as 04:40pm in the Police Station, Patel Nagar. The HOS has also made complaint to SHO on 11.10.2012 against the officer under suspension that the answer sheet of 1<sup>st</sup> term exam of classes V-C, V-D, VI-B, VI-C and VI-D for evaluation has not return by CO despite three reminders. But no action was taken by the police on this complaint also. Vide memo issued on 14.07.2012, though CO did not report for duty on 09.07.2012. It was being informed through the application dated 11.07.2012 that CO on leave since 09.07.2012.

48. MW-2 Urmil Dewan being HOS has issued memo to the Charge officer regarding absence from school without any prior intimation vide letter dated 03.09.2012 and dated 17.07.2012. Further that the charge officer refused to sign to the letter leave application dated 16.07.2012 and did not acknowledge both these letters. Further memo issued dated 14.07.2012, did not report for duty on 09.07.2012. It was informed through the application dated 11.07.2012 that the CO is on leave since 09.07.2012. The issue of coming late for the Session 2005-06 also brought into the knowledge of charges that on dated 3<sup>rd</sup>, 4<sup>th</sup>, 15<sup>th</sup>, 17<sup>th</sup>, 18<sup>th</sup>, 20<sup>th</sup>, 21<sup>st</sup>, 22<sup>nd</sup>, 25<sup>th</sup> & 26<sup>th</sup> of the month of April 2006. CO coming regularly late in the session as reported by former Principal Ms. Harsh Arya. Further complaint that CO has not completed her syllabus of 1<sup>st</sup> terminal of classes VI, B, C, D and no revision has been done. As such issued memo dated 11.09.2012. The charge officer was instructed by HM Mrs. Sunita Chadha to go in Class

*Sunita Chadha*  
26/12/2012

33 / 59

Vth A, but she refused to go and started shouting in front of the students showing disrespect to HM and HOS as such issued memo dated 21.07.2012. Further there are several memos and correspondence w.r.t. non-observation of the rules and regulations in the school and misbehaving and absence in the school.

49. In respect to the memorandum dated 23.02.2013 the appellant has filed the written brief/ reply stated that she did not wish to peruse contempt/ disciplinary proceeding against her and would rather seek an unconditional pardon for alleged incident mentioned in the memorandum. Though, simultaneously stoutly denied that anything has occurred. She (CO) has been working since establishment as early as 25.07.1996. She has been issued the letter of appreciation by Jagdish Anand from time to time and subsequently also she had been issued various letter of good character even the local counselor as well as some other organization. She is a single handling, rising her daughter without any financial support of her husband and for her livelihood entirely depending on her job with the respondent school. The proceeding has whatever outcome has grave adverse impact on her and her daughter well being and prayed to drop the proceedings. However, she could not be attributed with any link by any forum but only with respect to alleged behavior but also mis-conduct. She also like to reply to memorandum so as to highlight injustice as occasioned during the tenure of head of the school Urmil Dewan and being targeted though she has no ill-will and not disrespectful towards the head of the school. So far as Article 1 and 2 which have been denied and incident put by the said on 01.10.2012 when the CBSE team has visiting the school to

Sachin Kumar  
26/2/2025

inquire about the case of promotion of her daughter to the next class. The team has been reached at 01 : 30 pm when the student have already departed from the school. During the day she has regularly taken classes as usual. During the time when CBSE staff conducting inquiry the teaching staff which were incharge of her daughter in Class X is also present so there are three members of CBSE team and school was represented by Principal Ms. Urmil Dewan, Sunita Chadha and Ms. Alpa Mathur, Rashmi Dua, Bhawana Bisht, Shalini Uppal, Ms. Puri, Ms. Meena Jagjani and Anil Bhati, Mr. Satender and Medical incharge has obviously in justification to the result issued to her daughter. All the teaching staff present before the CBSE team had something adverse to say about the capabilities of her daughter, all the teachers present there has leveled allegations relating to her daughter for not attending classes, not submitted project, not attending physical education classes, abruptly running away from the school or absenting herself etc. The allegation relating to the capabilities of her daughter who has had been brilliant student in the previous classes as will be indicated in her successive result had demoralizing impact on her, not only her daughter but also against her to bring both to before CBSE team who did not give them appropriate hearing abbreviating the trauma which they both were undergone. The situation took a turn perverse when Ms. Sunita Chadha commenting that her daughter should commit suicide by slashing her wrist. This was absolutely not expected from an individual who was so highly placed in the school. This was prompted her at the end of the meeting, when all teaching staff including the Principal were saying of the CBSE team only Ms. Alpa Mathur was at reception, "to ask the aforesaid as to why you bank upon to career of her daughter". Instead of replying to the

Satinder  
26/12/2015  
35/59

aforesaid, Alpa mathur unusually run in the fight resulting in her losing balance and on her table. There was never an occasion for her to pick up a fight with the aforesaid teacher imputed the blame on her which also followed by some other teaching staff also raising an outray and imputing misconduct on her. Neither the incident as said in article 1 or in article 2 ever happened or occurred. She has always regard of fellow teacher staff and superior. It is all a conspiracy to prevent her from seeking justice for case relating to her daughter for which she had visited not only the CBSE but various other authorities. Which have been a cause for concern for the school but helpless person she was not understood. Neither had she pick any fight with fellow teacher staff nor misbehave or threaten any one. She physically not fit enough to pick up any fight with anybody since being crippled in right leg with both the bones of her lower and upper right leg in a very bad condition which require to be operated upon by insertion of steel rods. As far as it concerns the teaching staff filing complaints with the local police station. She was unaware of any of such complaints lodged against her and neither has any of the police staff made any enquiries from her in this regard.

50. So far as Article 3, the charge officer has submitted in her short written defence that she never ever any neglect toward her duties and neither in past ever by any previous Principal she has received the memo of allegation alleged during the tenure. She has never received a memo except during the tenure of Urmil Dewan HOS. During her tenure she has been pressurized into accepting some incorrect memos. The said HOS of school, for whatever reasons that vengeance with the aforesaid, in the

Sathnam  
28/2/2016

middle of the session and deliberately from her classes and also not permitting to administer the examination to such classes which also mention in the teacher diary duly signed by the Ex-Principal. She has never appraised of any complaints against her received from PTM and always attempted to impart the best education to the students.

So far as the answer sheets first time which was with her for evaluation since had been placed under suspension immediately, after the answer sheets were handed over to her, the same could not be returned to school. She had various efforts to personally tender the answer sheets back to the school but it appears upon the instructions of the authority inside the school, the security at the gate of the school was instructed to bar her entry into the school premises she had even intimated in writing to the school about the same to collect the answer sheets by way of a letter dispatched to the manager of the school through speed post on 27.11.2012 but there was no response to the same. She had written letter to the school to send someone responsible to collect the answer sheet at her residence but repeatedly sending peon at my residence at late hours, in the night to collect the answer sheets, same was not expected of the school authorities and it would have also been act of irresponsibility in case had she handed over the answer sheets to some peon who was not authorized.

Further no parent has ever made any kind of complaint against her. Neither ever have she been previously informed about any such thing. She had been checking the notebooks of the students regularly and thoroughly and had also completed and made the students to revise the whole

Sathya  
28/12/2012

syllabus well in time. She had been told to complete the courses for the classes which had been assigned to other teachers in the middle of the session. Moreover, it appears as if by way of some punitive action which is also not only contrary to the timetable for the classes but is otherwise also not expected to happen in the school that the regular teacher for class eight and class sixth were taken off the rosters assigned to them for the said classes and deputed teacher some other while these classes for the entire day which is from morning till the end of the school timings. This incident happened during the tenure of Ms. Urmil Dewan, whenever the aforesaid was made the acting Head of the school, in the absence of the regular appointment of the said post.

51. So far as Article 4 it is alleged that she never in the habit of remaining absent from the school and never taken leave. If she has taken leave after due intimation and with the permission of the school. In the past 2011-12 there have been unfortunately some occasion when she had taken leave since the said year has been highly traumatizing. Her daughter accidentally slipped in the school premises on 22.12.2011 was confined to bed for the next four months which also the reason she could not take her final examination. There was a robbery in her house in Sep, 2011, on 28.07.2012 she met with an accident when someone during his scooter in a rash way hit her on ankle for which she was treated in the hospital. She received severe burn injuries in July 2011, on account of incident of bursting of pressure cooker, while she was in process of cooking are some of the reasons for which she remain on leave from the school. On these occasion, the school duly intimated and given the permission. The medical

*Sushil Dewan*  
28/12/2011  
38/59

record of the accident as well as certain leave applications are annexed alongwith the reply.

52. Moreover, pursuant to earlier letter requesting for an extension of time period of 10 days to enable to respond to the memorandum dated 23.02.2013 issued to her in the process of drafting a response to the said memo, it is realized that memorandum is not accompanied with the documents as mentioned in Annexure III which the memorandum seeks to reply upon to establish charges against her. The memorandum supplied to her is only accompanied with four annexure and annexure III refers to 6 documents inter-alia comprising complaints; Memos; Minutes of Managing Committee dated 3 October 2012; 25 October 2012 and 31 January 2013, which do not accompany the memorandum supplied to her. It is important that before she respond to the memorandum, she be also applied with the copy of the aforesaid documents which are sought to be relied upon in the disciplinary proceedings.....”

53. On 01.06.2013 the inquiry proceeding was conducted in presence of charge officer and inquiry officer Mr. L.S. Narayan directed that the charge officer has receipts all the documents listed in Annexure II of the chargesheet but informed that some of the documents are not readable and could not be deciphered. It was directed to presenting officer, should sent to the CO one more set of all the documents listed in Annexure III duly countersigned by the Manager within a week by speed post. The matter was adjourned for 22.06.2013 at 11:00 am and Information was given to DDE Zone 16, Dist. West 'A' Karampura New Delhi vide letter dated

*S. Subramanian*  
26/12/2015

05.02.2014 that the Managing Committee of the school in its meeting held on 15.01.2015 unanimously resolved to constitute a Disciplinary Committee to go into the charges leveled against Ms. Alpana Kohli, TGT-English (under suspension). The meeting is scheduled to be held on 10.02.2014 at 11:00 am, which was signed by Dr. Meenakshi Gupta, Principal of the respondent school. On the direction of Hon'ble High Court dated 28.01.2014 a disciplinary authority committee is being held on 10.02.2014 to consider the indiscipline and misconduct and chargesheet was issued, Enquiry officer was appointed vide letter dated 05.02.2014.

In letter dated 10.02.2014, order by the Disciplinary Authority to constitute under Rule 118 consider the inquiry officer to be appointed to enquire into the charges. As such Mr. L.S. Narayanan, Retired DDE appointed as inquiry officer and Ms. Pratima Ahuja, as presenting officer on behalf of the management.

The DEO, Zone 16 asked the principal to take a prior approval to be nominated as the member of DAC vide letter dated 10.02.2014. On 17.02.2014 the Principal wrote a letter to DDE Zone (16) to resolving to constitute the disciplinary committee in terms thereof, before the constitution of the Disciplinary committee, the school management vide its letter dated 05.02.2014, requested to appoint one of DOE nominee as a member of the disciplinary committee. The meeting schedule on 10.02.2014, the DOE nominee was not present. In absence of nominee of DOE, DAC unanimously passed the resolution appointment of the enquiry officer and proceed to the charges leveled against the delinquent teachers.

*S. Anandulu*  
26/2/2015  
40/59

Vide letter dated 26.02.2014, Poonam Arora was appointed as member of DAC, who is member of the managing committee also.

On 22.03.2014, DAC were constituted alleging about not returning the answering sheets inspite of reminders and complaint received from PTM on 07.09.2012. Apart from that the CO was in habit of remain absent. The article of charge, show cause notice on 23.02.2013 vide letter alongwith statement of articles of charges as (Annexure I), Statement of imputation of misconduct or misbehavior (Annexure II), List of documents (Annexure III) and List of witnesses (Annexure IV).

E.O. vide order dated 24.03.2014 annexure I to IV handed over to the CO and she was advised to engage a defence assistant to assist her in the inquiry and submit his/ her credentials etc. The charge officer vide letter dated 09.04.2014 made a complaint to the manager of the respondent school that the inquiry officer is a legal consultant and paid employee of the SD public School. The element of biasness cannot be rule out. Therefore, requested to depute other person an inquiry officer. In the meeting of the Disciplinary Authority dated 16.04.2014 consider the agenda for appointment of new inquiry officer duly signed by the manager and the vice chairman, other officials and nominee of DOE was not present.

54. Now later on it revealed that Kamlesh Chauhan Education Officer Zone 16, Dist. West 'A' Karampura is appointed as new nominee of the DOE in place of Ms. PratibhaSapra vide letter dated 28.02.2014. There is

*Kamlesh Chauhan*  
26/12/2015

no letter of appointment issued by the competent authority from DOE for change of nominee of DOE. Even the said nominee of DOE Kamlesh Chauhan was not attending the meetings from 16.04.2014, 22.04.2014 and 08.05.2014. In a meeting dated 12.05.2014 of disciplinary committee attended by four persons excluding Kamlesh Chauhan Education officer, who has not come. Agenda was duly served. Though the inquiry officer and presenting officer was appointed in the said meeting notice dated 27.05.2014, 03.06.2014, 13.06.2014, 16.06.2014 was served to the CO. In the meeting dated 21.06.2014 the new inquiry officer Mr. R.A. Sharma (retired) principal as Inquiry officer and K.N. Midha as presenting officer was appointed. Though the coram was complete duly signed by all the members including nominee of DOE.

55. Vide order dated 26.07.2014, IO directed the CO vide letter dated 08.07.2014 and 17.07.2014 to submit the medical certificate but the CO failed to submit. One more opportunity granted to CO i.e. on 05.08.2014. On 05.08.2014 the CO was absent nor furnish the proper documents as mentioned in previous order. She also refused to receive the notice as not open her house gate. Vide order dated 07.10.2014, it is revealed that the CO request to inspect the original documents alongwith the copy of the memorandum of charges and annexure. The IO asked the CO to submit her request for additional documents and provide a list of defence witness if so desired by next date of hearing i.e. on 17.10.2014. Again the same request was made by the CO to the IO and the matter was adjourned on 29.10.2014. On 29.10.2014 inquiry officer order to take all list of documents under Annexure III of the charge sheet and numbered them S1,

Sathnam  
20/12/2014  
42/59

S2, S3, S5 S5(1) S5(2), S6, S6(1), S6(2), S6 (3), S6(4), S6(5), S6(6), S6(7), S7 and S8, except S4 as no listed document is available under Annexure III of the chargesheet. The PO is directed to inform the school witnesses namely Ms. AlpaMathur, PGT (BIO), Ms. UrmilDewan, Vice Principal, Ms. Sunita Chadha, Head Mistress regarding next date for appointment i.e. on 05.12.2014.

56. The management witness MW 1 AlpaMathur, PGT (Bio) examined and cross examined for three hours. The other two witness MW 2, MW 3 were not examine. Then matter adjourned for 18.12.2014. in the cross examination of MW –I categorically stated in question no. 2

*"CBSE team came to visit our school regarding the inquiry of AkshitaKohli, the daughter of Ms. AlpanaKohli, while the team was leaving after the inquiry. I was slapped by Ms. Alpana Kohli. My spectacles broke down and Ms. Alpana Kohli took away my broken spectacles."*

In question no. 14 answered that

*".....official people was present in the reception where she slapped Ms. Rita Sachdeva, Ms. Uma Chopra, were present during the incident of slapping...."*

And further in answer to the question no. 15 stated that

*"incident occurred where the CBSE was leaving and myself was returning for school stamp pad to the office staff."*

Answer to question 17 stated that

*Satinder Kumar  
28/12/2015*

*"due to act of slap spectacles fell down on the ground and broken and thereafter she lifted and twisted and kept into her purse."*

The testimony of MW-1 Alpa Mathur, revealed that the incident of slapping was took place in the presence of CBSE Officials, Ms.Rita Sachdeva & Ms. Uma Chopra and further MW 1 stated that she do not have any prove of using abusive language by CO. In these circumstances, it is the responsibility of the PO/management to examine Ms. Rita Sachdeva and Ms. Uma Chopra and Official from CBSE. As per the list of witnesses annexure IV, there are 15 witnesses in the list of witnesses including Ms. Rita Sachdeva and Ms. Uma Chopra who were also stated to be present at the time of incident but both these witnesses are material one but not been examined nor any reason explained. There are 15 witnesses cited in the list of the witnesses, only three witnesses were examine. One witness was cross examined, MW2 was partly cross examined and MW3 was not cross examined. As such testimony of MW2 and MW-3 cannot be read in evidence against the CO. MW-1 was examined and completely cross examined and MW2 Urmil Deewan was partly cross examined. Vide EO order dated 19.03.2015.

MW-2 in question no. 16 stated that CO used the word as:-

*"Aap yha se zinda ghar nahi jaoge, main apko marwa doongi."*

The CO further instigated her daughter (Ms. Akshita Kohli) to commit suicide and blame will be put on MW-2 Ms. Urmil Dewan for instigation.

*"Tumhare bacche widhwa ho jayege."*

*Sahni  
26/12/2025*

57. It was also reported by the inquiry officer that "The CO put allegation both on IO and PO time and again as such behavior of the CO was inhuman. She cross all the limits and misbehave with MW 2 and the PO also Even the EO, inspite of repeated request to proceed further, she remain obstinate and left the Inquiry proceeding with the remarks that the 'Inquiry Officer is highly biased'. She went out with the remarks with "Do whatever you like. All the questions are irrelevant and I have been right to put any question". This statement was objected but in heated temperament she went out showing to boycott the inquiry proceedings. Hence the IO having no alternative except to proceed ex-parte as from the behavior of Co. There was no other option because it has been already being delayed due to non-cooperative behavior, inhuman acts of the CO during the inquiry proceedings. Vide order dated 19.03.2015 CO was proceeded ex-parte

58. While examination of MW-3 Sunita Chadha (in absence of CO) on 19.03.2015 the cross examination by the CO could not be conducted as CO has already left the inquiry proceeding by alleging to use abusive filthy language and made bald allegations against the IO & PO as biased against her. Thereafter on 30.03.2015 the Presenting officer K.N. Midha submitted the written brief passed certain remarks in last para of written brief that "one again the CO must most cleverly dare to dodge the IO by submitting in complete order with some motive kept under blanket covered under judge to decide." The CO played foul of four hearing and did not explain the testimony of the witnesses in the written brief submitted that all the charges are conclusively stand proved including the Charge no. 4.

S. K. Midha  
26/12/2015

59. Inquiry officer furnished inquiry report on 04.09.2015 with the conclusion of proved charge no 1 to 3 and charge no. 4 is partially proved. The testimony of MW-II Urmil Dewan and MW-III Sunita Chadha was not concluded by cross examine by the charge officer therefore only witness examined is MW-I Alpa Mathur who has categorically stated that the said incidence took place in the presence of Rita Sachdeva & Uma Chopra. The Inquiry Officer has not examined them nor any reason has been assigned for non-examination of these material witnesses. Even the statement of dropping of witnesses is not recorded by the IO as to reason why the witnesses were dropped by the PO. Though it revealed from the inquiry report and the brief of PO that there are some sarcastic and unparliamentary remark used during the brief presentation and the inquiry report which does not deserve as they are beyond perverse.

60. The oral evidence of solitary witness cannot be relied upon if its not corroborated by other witnesses who were there, even CCTV non-function or footage has not kept on record. No expert witness has been examine to the effect of DVR of CCTV. Presumption of facts that letters once posted reached the destination stands rebutted when addressee denies to have received it. Substituted service may not be due service. It is determined by ascertaining circumstances.

61. As observe in ***Ram August Tewari Vs. Bindeshwari Tewari, 1972 BLJR 97 : 1971 PLJR 587.*** The oral evidence must, in all cases whatever, be direct; that is to say-

Sunita Chadha  
26/12/2025

- *if it refers to a fact which could be seen, it must be the evidence of a witness who says he saw it;*
- *if it refers to a fact which could be heard, it must be the evidence of a witness who says he heard it;*
- *if it refers to a fact which could be perceived by any other sense or in any other manner, it must be the evidence of a witness who says he perceived it by that sense or in that manner;*
- *if it refers to an opinion or to the grounds on which that opinion is held, it must be the evidence of the person who holds that opinion on those grounds:*

Provided that the opinions of experts expressed in any treatise commonly offered for sale, and the grounds on which such opinions are held may be proved by the production of such treatises if the author is dead or cannot be found, or has become incapable of giving evidence, or cannot be called as a witness without an amount of delay or expense which the Court regards as unreasonable:

Provided also that, if oral evidence refers to the existence or condition of any material thing other than a document, the Court may, if it thinks fit, require the production of such material thing for its inspection.

62. The management has examined all three interested witnesses they have not given a specific overt of the appellant and given the name of eye witnesses. The name of the eye witnesses was not mentioned in the police report, nor the incident as alleged by the MW-I is mentioned in the chronicle order. The slapped injury has not been corroborated by any medical evidence and there is a delay in lodging the police report. There

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*26/12/25*

was not a single independent witness has been examined nor any thing about the recovery of broken pieces of glass of spectacles.

63. On scrutiny of sole testimony of the MW-I, it appears that there may be heated altercations and there is no prior enmity perceivable from the evidence. Appellant had denied any such event has been taken place. Even though broken spectacles have not been recovered from the possession of the CO or any piece of broken spectacle found from the place of incident. Though there are CCTV was available. There was no report of the CCTV to be found to be place on record . The atmosphere of the inquiry proceeding was not conducive, whereas the appellant could not proceed to engage the Defence Assistant and have only the sole person before proceed to holding her guilty is being determine by the presenting officer and Enquiry officer to before determine to held her guilty by placing her unsuitable and unparliamentary remarks. There is nothing to credit the testimony that the charge officer has asserted to Alpa Mathur.

64. As per the provision of Evidence Act (old) U/s 104 "*the burden of proving any fact necessary to be prove, in order to enable any person to give evidence of any fact on the person who wishes to be such evidence*". In the criminal trial the burden of proof is beyond reasonable doubt. However, during the course of inquiry the 'preponderance of probability' is to be proved with the legal presumptions. The absence of such circumstances is not intended to display the additional burden of prosecution. It only to prove with reasonable fraternity that can be rest on the presumption regarding the absence of circumstances bringing the case

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26/12/2015

48/59

within any of that charge which helped in to determine on whom it burdened to prove facts necessary to attract the exception and the charge officer can discharge the burden of 'preponderance of probability' unlike the prosecution. But there is no presumption that CO is aggressive in any case of use of criminal force. If there is any reasonable doubt even from the management evidence that the aggressor in appearance was not guilty but would have been victim party then benefit of that reasonable doubt extended to the CO. No matter that she did not adduce any evidence in that directions.

65. **Redrose Public School Vs. Reshmavati & Ors. 2019 SCC online Delhi 10937** para no. 17 to 20 has discussed about the biasness specifically pleaded on specific allegations has to be made apart from the independent witnesses to prove the allegations against the CO. The relevant paragraph are reproduced as under:

*17. It is well settled in law that personal bias has to be specifically pleaded, and specific allegations have to be made as to who and for what reason the person is acting with bias. Not only that, evidence has to be lead to establish actual bias. Bias cannot remain in the mind of the person making the allegation. It has to appear to be in existence on the record. In the present case, the allegation of bias was made by respondent No. 1 on the premise that she had preferred the Civil Suit to claim higher wages payable under the Sixth Central Pay Commission Report and that she was targeted for that reason, since she was considered to be the ring leader. It appears that no evidence in this regard was lead by her. In any event, the Tribunal dealt with this submission and returned a finding that there was no evidence of bias. since there were several others including her own relatives serving in the same school, who had made the same claim and the*

*Satish Kumar*  
*28/12/2016*

claim had been mutually settled in mediation to the satisfaction of all concerned. No other person had been targeted or subjected to disciplinary proceedings like the respondent.

18. The learned Single Judge, in our view, could not have interfered with that finding of the Tribunal, which was based on appreciation of the allegation and evidence in that regard. The learned Single Judge certainly could not have proceeded only on the basis of assumptions, which he has done. Thus, the finding of bias returned against the appellant cannot be sustained and is set aside.

19. We also find that the learned Single Judge, while dealing with the said aspect, found that the allegations against the respondent had not been proved by "independent witnesses". Even this finding of the learned Single Judge cannot be sustained. Looking to the nature of the allegations/charge framed against the respondent, it is obvious that the witnesses would be those serving in the school, since the allegations related to the alleged misconduct by the respondent while so serving in the school. Obviously, outsiders would not, normally, be witnesses to on goings inside the school premises, which is not a public place or a thorough fare.

20. Merely because those produced as witnesses by the appellant to prove the charge, were also serving in the same school, would not lead to inference that the witnesses were not independent witnesses. They were independent because they had no axe to grind against the respondent and it was not established by the respondent that they were coerced to make statements against the respondent No. 1. If the measure adopted by the learned Single Judge is applied to determine the independence or lack of it, of the witnesses, hardly ever departmental proceedings in relation to misconduct undertaken within the four corners of the organization, would be established, since it is likely that there would be no outsider, who would be in a position to make any statement or depositions.

*S. K. J. M. V.*  
28/12/2025

66. In the concluding proceeding PO has give brief the presentation of case with evidence who were made available for cross examination before the charge officer, the inquiry officer would call upon the charged employee to present his defence. At this stage, the charged employee is entitled to put a fresh defence statement separate from the one earlier given by him to disciplinary authority in reply to the allegation containing the charge memo. The inquiry officer by giving the warning and proceeded by the order to proceed the inquiry as ex-parte. The order of ex-parte inquiry was not communicated nor there after any correspondence made to the CO to inform to give his defence evidence or examine herself. The expression "adequate opportunity" including officer assistance to secure the attendance of the witnesses working in the same establishment. Of course there is no compulsion for the inquiry officer to secure attendance of the witnesses listed but it cannot refuse to summon any such witnesses who belong to the same establishment. The inquiry officer may write to the head of department requested them to send the require person to appear at the inquiry at the appointed date and time. In normal circumstances, no employer should refuse to cooperate in such matter because it is necessary for the sake of equity, justice and the establishment peace to cooperate in the matter as much as possible. On appearance of the management official as a defence witness in order to corroborate the reply to the memorandum of charges by the CO whatever evidence in her favour appeared there from in respect of the event as well as about her conduct efficiency or orderliness, etc. It is unusual for the delinquent to declare his own witness (management official) as hostile to cross examine them. This should surely be viewed as undesirable misuse of the opportunity given to

Sathya  
26/12/2021

51/59

her and inquiry officer shall firmly disallow such deliberate attempt to harass management official.

67. In the case of *Peeramal Spinning and Weaving Ltd. Vs. Talathi (1998) 56 FLR 319 (Bombay)* it was observed that:

*"It was pointed out by the Bombay High Court, that when the worker is illiterate he must be told at the conclusion of the management evidence that he can produce his own witnesses and in such a case failure of the inquiry officer to tell him about his right to adduce his evidence amount to violation of principle of natural justice."*

*"However normal rule is that each has to produce their own witnesses thus where the inquiry officer at the request of the charge officer wrote letter to certain witness to come and give evidence but none have come and the worker produce one letter not signed by one of the witness seek adjournment to the inquiry officer is within his right to grant time despite the letter written by the inquiry officer to the witness to depose the worker did not turn up. It cannot be urged that no opportunity had been given to the workmen."*

68. If the refusal to examine the material witness or to allowed other witnesses to lead appearance result of the desire deprive the chargesheeted worker, the opportunity to establish her innocence then matter would be serious and prejudice would be cause to the delinquent worker. But failure of the inquiry officer to call some of the witnesses called by the employee to contradict the report made by them against the worker and they were available amount to violation of principle of natural justice. As observed in *State of Punjab Vs. Deewan Chunnial 1970 (1) SCC 479*. The leading question can be put to the witness during the cross

*Sathindran*  
*25/2/2025*

52 / 59

examination. It is to be noted that the cross examination should be limited to the matters upon which the witness has been examine in chief. It is only in the circumstances where there is a reason for believing that the witness has suppressed some material facts or has not stated the whole truth. The cross examination may be directed to those which have been supposed to be suppressed. The main object of cross examination is three fold:-

- i. To impeach the accuracy, credibility and general value of the evidence given in chief.
- ii. To detect and expose discrepancies; and
- iii. Illicit expressed facts which will support the case of cross examining party.

In law, no evidence is admissible against that party unless the latter has had an opportunity of testing the truthfulness by cross examination. The remaining two witnesses are not cross examined by the CO as such there testimony neither be corroborated nor will read against the CO with respect to the charges. There is no oral or any documentary evidence has been placed on record by the presenting officer in order to prove the charge no. 4 though charge no. 4 has been reported by the inquiry officer is partly proved or unproved but no explained how it is partly proved, how the partly unproved which also reflects the demeanor/ conduct of the inquiry officer also. This seems to be turning towards the management side since being paid honorarium etc. by the management and has been appointed by the management without consent and information to the delinquent employee nor any prior intimation was given.

*Sathya Narayan*  
26/2/25

69. The letter dated 15.10.2015 issued by the management respondent school stated that the management committee considering the DAC report regarding finding of inquiry officer and has approved the decision of the DAC in its meeting that the major penalty under Rule 117 (b) (iii) of DSEA&R 1973 "removal from service shall not be disqualification from future employment in any recognized school has been imposed".

CO has given two days time to represent against purpose and also warn that if fail to give representation within two days time, it will be presumed that CO have nothing to say", which also contrary to sprit of Rule 120.

As prayed, the said letter was sent by post though prior to that said letter was refused by CO in presence of Ms. Neelu Dandona and Ms. Puja Mehta.

70. As per the provision of Rule 120 (d) provided:-

*(d) the disciplinary authority shall consider the record of the inquiry and record its findings on each charge and if the disciplinary authority is of opinion that any of the major penalties should be imposed, it shall-*

*(i) furnish to the employee a copy of the report of the inquiry officer, where an inquiry has been made by such officer;*

*(ii) give him notice in writing stating the action proposed to be taken in regard to him and calling upon him to submit within the specified time, no exceeding two weeks, such representation as he may wish to make against the proposed action;*

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(iii) on receipt of the representation, if any, made by the employee, the disciplinary authority shall determine what penalty, if any, should be imposed on the employee and communicate its tentative decision to impose the penalty to the Director for his prior approval;

(iv) after considering the representation made by the employee against the penalty the disciplinary authority shall record its findings as to the penalty which it proposes to impose on the employee and send its findings and decision to the Director for his approval and while sending the case to the Director, the disciplinary authority shall furnish to him all relevant records of the case including the statement of allegation charges framed against the employee, representation made by the employee, a copy of the inquiry report, where such inquiry was made, and the proceedings of the disciplinary authority.

71. In the said letter, as per Rule 120(d)(i)&(ii) the copy of the enquiry report of has to be furnished through disciplinary authority and disciplinary authority recorded its finding on each charges. The disciplinary authority has not given any opinion that any of the penalty should be imposed furnish the copies of the report of the inquiry officer and give notice and calling upon to submit specific time not exceeding two weeks to such representation. However, in the instant case the instructions was given by the manager on behalf of the management committee for the purpose of propose a major penalty to be imposed without furnishing the copy of the inquiry report, etc. Mere giving a letter and by that letter of proposal seeking two day time to give representation and before receiving the representation have impose the major penalty of terminate service vide letter dated 15.10.2015. On the basis of the inquiry report dated 04.09.2015 communicated vide letter dated 22.09.2015, there is no

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approval of DAC regarding for imposing the major penalty. Then the DAC was approved and consent was given by the management committee in its meeting in absence of DE nominee. Vide letter dated 22.09.2015 DAC meeting held on 21.09.2015 asking to submit the reply to the inquiry report within two days before expiry of the said limitations, the decision of major penalty was communicated by the manager, who has been delegated power on behalf of Chairman which is also contrary to the DSEAR 1973 and PNJ.

72. As per the reply / written synopsis on behalf of R-1 (DOE). The R-2 is a unaided private school and govern by the provision of DSEAR 1973. When the appellant was removed from the service vide order dated 15.10.2015 issued by the Manager of SD Public School, there was no prior approval of the competent authority as per Rule 120(2).

Rule 120 (2) define as under:

*No order with regard to major penalty shall be made by the disciplinary authority except after receiving of the approval of DOE.*

73. In the instant letter dated 15.10.2015 there is no communication of any approval of DOE. During the course of inquiry, it is admitted that the listed six documents was not actually supplied. Item no. 5 from list of documents referring to the memos without any detail and particular. The deposition of the Ms. Alpa Mathur who is sole witness could not itself have made any trustworthy ocular evidence and her testimony does not inspire confidence. It has been testified contradictory in her cross examination in several point with respect to the charges. Apart from that the other witnesses though they are the official of the management has not came

*S. Anand*  
26/12/15  
56/59

forward to examine before the inquiry officer nor any inquiry officer has asked to, for any reason for non examination of these witnesses. There is no statement of the presenting officer was recorded for dropping of these witnesses. Though there are about 15 witnesses were cited. Hardly three witness was been brought for examination and only MW 1 was cross examination and rest of two witnesses examination in chief was recorded and MW 2 was partly cross examine. As such no opportunity was been afforded by the inquiry officer while summoning the other witnesses therefore their testimonies of MW2 and MW3 was deferred for cross examination which cannot be read against the charge officer at the time of examine and analysis by the inquiry officer. Even though DAC has not been given any opinion on each charges, in consonance with the testimonies of the witnesses as examined. The already recorded statement of MW-1 was endorse with exhibited documents. The inquiry officer has made their endorsement to the testimonies, which is been further accepted by the management committee & Disciplinary Authority. There is no meeting of the DAC and the management committee has been placed on record with respect to the proposed penalties by the DAC and given an opportunity to the CO to give a representation as per Rule 120 (i) (d) under the DSEAR 1973.

74. The management committee & DAC are seems to be pre-determine to impose of the major penalty which has been forwarded by the manager who is neither competent nor by any law to delegate power to him, for issuing order of major penalty. It has been contrary with the provision of Rule 118 and Rule 120 DSEAR 1973. The contentions raised

*Settled in 2025*  
26/12/2025

57 / 59

by the appellant are more found more trustworthy which inspire confidence that the conducted by the R-2 contrary to the Act & Rules as well as PNJ. Respondents have not complied with the provisions of DSEAR 1973 & PNJ and judgment of *Naresh Kumar Gandhi Vs. Cambridge Foundation School and Ors. W.P (C) 9481/2017 decided on 17.07.2023, Anjna Luthra Vs. Govt. of NCT of Delhi and Ors. WP(C) 5738/2020 decided on 11.05.2023, Mangal Sain Jain Vs. Principal, Balvantray Mehta Vidya Bhawan and Ors. W.P. (C) 3415/2012 decided on 10.08.2020.*

75. Accordingly, this tribunal has come to conclusion that the management has failed to brought on record the plea as alleged in order to prove their memorandum of charges against the charge officer/ appellant. The inquiry officer has also not been conducted inquiry strictly follow the principle of natural justice and provision of DSEAR 1973. Accordingly, the termination order dated 15.10.2015 is declare as illegal and same is hereby set aside.

76. Since the appellant has attended the age of superannuation and her counsel give statement on 25.08.2023 that due to ill health she is not interested in reinstatement. As such, appellant be notionally reinstated in service alongwith all consequential benefits from date of termination till superannuation.

77. In so far as the backwages and other allowances for the period between the penalty and superannuation of the concerned, the decision shall be taken by the Management committee of the school U/R 121 of

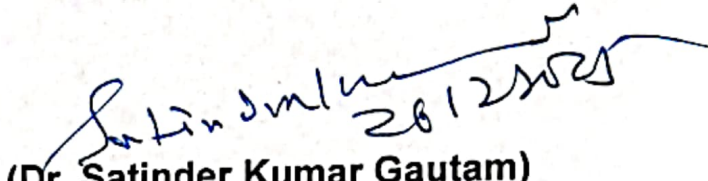
*S. K. J. M. W. W.*  
21/2/2023

Delhi School Education Rules 1973, within six weeks' from today needless to state reasons and speaking order shall be passed, which shall be communicated to the appellant who will be at liberty to take recourse to the legal remedy in case of any surviving grievances.

The appeal no. 48/2016 is allowed and disposed off.

Announced on 26<sup>th</sup> December 2025

File be consigned to record room.

  
(Dr. Satinder Kumar Gautam)  
Presiding Officer  
Delhi School Tribunal  
26.12.2025