

**(Equivalent Citation:- 2000(2) SLJ 32, 1999(51) DRJ 317, 1999(51) DRJ 317)**

**82 (1999) DELHI LAW TIMES 131  
DELHI HIGH COURT**

**A.K. Sikri, J.**

**R.A. MISHRA & OTHERS—Petitioners**

**versus**

**GOVERNMENT OF NCT OF DELHI & OTHERS—Respondents**

**CWP No. 4558 of 1997—Decided on 27.9.1999**

**Constitution of India, 1950—Art. 226—Delhi School Education Act, 1973—Section 8(4)—Suspension : Not Approved by Directorate of Education : Reinstatement with Salary for Intervening Period—No permission given by D.O.E. within 15 days from date of suspension of group ‘A’ petitioners—They specifically refused permission—Once such suspension could not remain in force after 15 days, Group ‘A’ petitioners are deemed to be in service—They were not allowed to join duties in view of injunction order passed against them in suit filed by management—They are entitled to salary from date of suspension till date of reinstatement—About Group ‘B’ petitioners D.O.E. did not declare them surplus—Due to vendetta of management of School against Group ‘B’ petitioners, they were intentionally declared surplus and forced out of School—Illegal termination—Entitled to salaries for intervening period.**

**Held:** Even if it is treated that Managing Committee thought that immediate suspension of the Group ‘A’ petitioners was necessary, admittedly no permission was given by the Directorate of Education within 15 days from the date of suspension. On the contrary Directorate of Education specifically refused this permission *vide* order dated 11th January, 1995. Therefore, once such suspension could not remain in force after 15 days, Group ‘A’ petitioners are deemed to be in service. However, they were not allowed to join duties in view of the injunction order passed against them in a suit filed by the management of the School. Group A petitioners are therefore entitled to the salary from the date of suspension till the date they were reinstated back and allowed to join the duties.

**(Para 16)**

**Held further:** Insofar as Group ‘B’ petitioners are concerned Directorate of Education itself did not accept the action of the management of the School declaring them surplus. In fact action of the erstwhile management of the School in disbanding classes XIth and XIIth was not approved by Directorate of Education and after taking over of the management of the School, classes XIth and XIIth were restarted. It is clear that due to vendetta of the management of the School against Group ‘B’ petitioners they were intentionally declared surplus and forced out of the School amounting to illegal termination and therefore on their reinstatement they would be entitled to the salaries for the intervening period.

**(Para 17)**

**Held further:** Since the management of the School with entire corpus including amount lying deposited in Court has been taken over by the, Department/respondent Nos. 1 to 4 it would be the liability of respondents 1 to 4 to pay salary of the period in question to the petitioners. On the other hand the services of the petitioners were wrongly terminated by erstwhile management of the School/respondent No. 5 and therefore their liability to pay the salary in question to the petitioners is also there. Therefore I hold that both respondents 1 to 4 as well as respondent No. 5 are jointly and severally liable to pay the salary of the intervening period to these petitioners.

[\(Para 20\)](#)

**Result: Writ Petition allowed:**

**Counsel for the Parties:**

For the Petitioners: **Mr. Soman Daval, Advocate.**

For the Respondent Nos. 1 & 4: **Ms. A. Ahlawat, Advocate.**

For the Respondent No. 5: **Mr. R.M. Sinha, Advocate.**