ORDER

Whereas, Sh. Virender Singh, PGT (Economics) Employee ID - 19820726 of SBV (Babu Ram), Bholo Nath Nagar, Shahdara, Delhi – 110032 (School ID : 1001001), vide his application dated 04/12/2012, received in the school office on 18/12/2012, requested/applied for ‘Re-employment’ w.e.f. 01/01/2013 consequent upon his retirement from Government services w.e.f 31/12/2012 on attaining the age of superannuation vide order dated 24/08/2012.

And whereas, Re-employment of teachers on attaining the age of superannuation (60 years of age) is regulated vide Notification F. 30.3/Co-ord/2006/689 – 703 dated 29/01/2007 and further vide Order No. F. 30-3(28)/Co-ord/2006/4637 – 72 dated 28/02/2007 and as per the provisions of Order No. F. 32(8)/2011/SB/EDU/136-155 dated 27/01/2012.

And whereas, as per the terms and conditions of Re-employment as approved by the Hon’ble LG of Delhi, and other directions/instructions as issued by Head Quarter, Directorate of Education from time to time the Re-employment after retirement is subject to a fitness and Vigilance Clearance of the retiring teachers. Fitness includes the physical fitness, for which medical certificate is required from an authorized medical practitioner, as well as the professional fitness which is to be assessed by the Department.

And whereas, the case of Sh. Virender Singh, PGT (Economics) Emp. ID No 19820726, of Babu Ram Bholo Nath Nagar, Shahdara, Delhi – 110032 (School ID : 1001008) for Re-employment was forwarded by the Head of School to the District East.

And whereas, the case of Sh. Virender Singh, PGT (Economics) was examined as per the provisions of the Circular for Re-employment with reference to the Physical Fitness, Professional Fitness, Vigilance Clearance and General Work and Conduct of the teacher and the following shortcomings were observed as per information/documents/evidence as conveyed by the Head of School SBV (Babu Ram), Bholo Nath Nagar, Shahdara, Delhi – 110032 (School ID: 1001001).
1. PROFESSIONAL FITNESS:

Whereas, the result of Mr. Virender Singh, PGT(Economics) for academic session 2007-08 for XII Class has declined from 100% to 64% showing a fall of 36%. The HOS, SBV, Bhola Nath Nagar has also remarked in the ACR 2007-08 that the official is average teacher and is advised to read more and develop confidence. Although for the result of XII Class of the teacher increased in the academic year 2008-09 but the HOS again remarked in the ACR 2008-09 that the official is an average teacher, and he is advised to read more to develop confidence. In the academic year 2009-10 the result of the teacher for XII class again declined by 12% i.e. from 88% to 76% only.

In next academic year 2010-11, the result of the XII Class further dipped to 62% again showing fall of 14%. The result of the teacher of XII Class further plummeted to mere 19% showing the steep fall of 43%. For this poor performance for the year 2011-12 the teacher was given “Average Grading” in the ACR by the HOS, SBV, Bhola Nath Nagar and agreed to by the Higher Authority i.e. the Education Officer, Zone-I and was also given Average Grading as per the assessment. The official was issued a Memorandum dated 03.09.12 for the decline in the result for the year 2011-12. The HOS not satisfied with the reply of the teacher, has warned him on 24.09.12 that poor performance may effect his service adversely for which he himself will be responsible. From the analysis of the result of the teacher of the Class XII, it can be seen that except for one year the result of the teacher has been declining for the last five years and from 100% in the year 2006-07, it came down and touched the mere 19% which is a huge deviation from the academic point of view as far as a teacher is concerned who has the task of motivating the students to strive hard and secure good marks & secure a bright future.

2. GENERAL WORK AND CONDUCT OF THE TEACHER:

Whereas, on 28.07.12 the teacher was found absent from the Class during the inspection made by the HOS Concerned. The official left the school on 28.11.11 without any intimation to the HOS, whereas on 29.11.11 he came late which shows indiscipline and lack of punctuality on the part of the teacher. Whereas discipline is the base of the school students & teachers.

The teacher did not receive the answer sheets of Class XI (Economics) on 20.03.12 and did not evaluate the same although the evaluation is an essential part of the teaching work which was completely neglected by him and which shows the disrespect & disregard towards the Higher Authorities on the part of the teacher. It also shows that the official is not only negligent towards his duties but also habitual in disobeying the order of the Higher Authorities. Mr. Virender Singh has failed miserably as far as his professional fitness is concerned. Not only his result declined
constantly but his work & conduct raised question mark on capability & professional fitness as a teacher.

3. COURT JUDGEMENTS AND OBSERVATIONS:

And whereas, it is observed that the Hon’ble High Court of Delhi, vide order dated 29/04/2011 passed in WP(C) No. 4330/2010, in the matter of Shahi Kohli Vs. Directorate of Education, referring to judgment passed by the Division Bench of the High Court in the matter of Professor P.S. Verma V/s Jamia Milia Islamia University and others and Dr. V.K. Aggarwal Vs University of Delhi and Ors had held that re-employment is not matter of right and has observed as under:-

“At the cost repetition, it may be stated that the petitioner has no right for re-employment. She only has the right to be considered and school has a right to deny her re-employment, if after considering overall performance as a teacher, it finds that she is not for Re-employment.

For the reasons detailed above, I find myself one with Respondent No.2, and hold that the action taken by it in not granting re-employment to the petitioner suffers from no illegality.

The writ petition has no merit. The same is dismissed.”

And whereas, in other OA No. 3663/2010 in the matter of Bachhan Singh Vs GNCT of Delhi and others, Principal Bench of the Hon’ble Central Administrative Tribunal comprising of Hon’ble Mr. Justice P. Swaroop Reddy, Member (J) and Hon’ble Dr. Veena Chhotray, Member (A) has passed an order dated 03/05/2011 in the OA.

The operative part of order dated 03/05/2011 in OA No. 3663/2010 is as follows:-

“In our considered view, re-employment is concession given by the Government with an object to be achieved. The only pensioners are utilized after retirement who had clean service record and have proved their utility for such re-employment. The issue whether he has communicated adverse remarks or not does not relate to evaluation of his performance and on challenge thereof, law will take its own course. Deputy Director of Education on the basis of records of the applicant having come to the conclusion that his performance was not apt and he was not found fit to be considered for re-employment, we do not find any infirmity in the order passed by the respondents”.

The Hon’ble Principal Bench has further mentioned :-

“As per the settled law, the allegations of mala fide are not to be taken at their face value, while dealing with service claims in judicial review. Similarly, unless proved otherwise, the presumption is that the officials are performing their duties in bona fide manner. A plain
reading of the relevant notification dated 29/01/2007 on the subject of issuance of this scheme reveals that the scheme has inter alia been made “subject to fitness”. In the instant case the applicant evidently has not been found to be professionally fit for re-employment for the reasons stated by the respondent’s in their order dated 29/07/2010 in view of this, the other averments as indicated at point (IV) of the para 5 above, would also not survive. Besides, the decision of the learned Co-ordinate Branch in the OA 2601/2009 also does not lend any support to the case of the applicant.

As the OA is found to be bereft of merit, it is dismissed hereby with not order as to costs”.

Since, the Head of the School is the ultimate in-charge of the teacher concerned, the report of the Head of School about the teacher aspiring for the re-employment, is pivotal. In the instant case, the Head of the School has not been found the retiring applicant teacher fit for the automatic re-employment.

And whereas, Head of School has not recommended the Re-employment of Sh. Virender Singh, PGT (Economics) on the basis of his detailed observations and documentary evidence placed in the file.

In view of the above facts & circumstances, I observe that the request of Mr. Virender Singh for the re-employment does not hold any merit and it is further observed that his request has rightly been rejected vide No.F.DE-47(4)(2)/PGT/E/A/13/4686-4688 Dated 17.04.13 by the DDE(East).

RDE (East)

Copy to:-

1. PS to DE, Directorate of Education, Old Secretariat, Delhi.
2. 2 EO/DEO Zone – I.
3. Assistant Director of Education (E-III), Directorate of Education, Old Secretariat, Delhi.
4. Head of School SBV (Babu Ram), Bhola Nath Nagar, Shahdara, Delhi – 110032
5. OS (IT) with the request to upload the order.