IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6273 OF 2018

Keshav Janardhan Kohakade,
Age: 46 years, Occu: Service,
R/o. At Post-Baragaon Nandur,
Tq. Rahuri, Dist. Ahmednagar. ....Petitioner

V E R S U S

1. The State of Maharashtra
   Through its Secretary,
   School Education Department,
   Mantralaya Mumbai.
2. Secretary,
   Laxmi Narayan Pratisthan Shrishivaji Nagar,
   Tq. Rahuri, Dist. Ahmednagar.
3. Head Master,
   Shri. Sangmeshwar Madhyamik Vidyalaya,
   Wanjulpoi, Tq. Rahuri, Dist. Ahmednagar.
4. Education Officer (Secondary),
   Zilla Parishad, Ahmednagar. ....Respondents

WITH

WRIT PETITION NO. 6269 OF 2018

Laxman Sakharam Sonawane,
Age: 49 years, Occu: Service,
R/o. At Post-Takalimiya,
Tq. Rahuri, Dist. Ahmednagar. ....Petitioner

V E R S U S

1. The State of Maharashtra
Through its Secretary,
School Education Department,
Mantralaya Mumbai.

2. Secretary,
Laxmi Narayan Pratisthan Shrishivaji Nagar,
Tq. Rahuri, Dist. Ahmednagar.

3. Head Master,
Shri. Sangmeshwar Madhyamik Vidyalaya,
Wanjulpoi, Tq. Rahuri, Dist. Ahmednagar.

4. Education Officer (Secondary),
Zilla Parishad, Ahmednagar. ….Respondents

WITH
WRIT PETITION NO. 6393 OF 2018

Prakash Keshavrao Salunke,
Age: 47 years, Occu: Service,
R/o. At Post Manori,
Tq. Rahuri, Dist. Ahmednagar. ….Petitioner

V E R S U S

1. The State of Maharashtra
Through its Secretary,
School Education Department,
Mantralaya Mumbai.

2. Administrative Officer,
Laxmi Narayan Pratisthan Shrishivaji Nagar,
Tq. Rahuri, Dist. Ahmednagar.

3. Head Master,
Shri. Sangmeshwar Madhyamik Vidyalaya,
Wanjulpoi, Tq. Rahuri, Dist. Ahmednagar.

4. Education Officer (Secondary),
Zilla Parishad, Ahmednagar. ….Respondents

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Dr. Rajendra J. Godbole, Advocate for the Petitioners in all Petitions.
Ms. S. S. Joshi, AGP for the Respondent Nos. 1 and 4 in all Petitions.
None for Respondent Nos. 2 and 3 in all Petitions

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CORAM : KISHORE C. SANT,
JITENDRA S. JAIN, JJ
RESERVED ON : 20th AUGUST 2026.
PRONOUNCED ON : 29th SEPTEMBER 2026.

ORDER :- [PER: KISHORE C. SANT, J.]

1] Heard Dr. Godbole, learned Advocate appearing for petitioners, Ms. Joshi, the learned AGP for respondents No.1 and 4. None appears for respondents Nos. 2 and 3 though served with notice for final disposal. As the grievance is against the respondent Nos. 1 and 4, the petitions are taken up for final disposal by consent of the parties.

2] The grievance of the petitioners in all these petitions is common, and the respondents are also same. The petitioners claim that they were appointed on 02.06.1996, 01.07.1996 and 02.09.1996 respectively.

3] It is the case of the petitioners that though they were appointed with respondents Nos. 2 and 3, their services were terminated illegally. The petitioners were therefore required to file appeals before the learned School Tribunal Pune, Region Solapur, by filing Appeal Nos. 81/2006, 80/2006 and 83/2006, respectively. The learned School Tribunal allowed the appeals and directed respondent-school and the management to absorb the appellants as Assistant Teachers in any of the school run by the management i.e. respondent No.2. It was further directed to pay them salaries as per rules.

4] It is the case of respondent Nos. 2 and 3 that there were no posts available at the relevant time. In 2011-2012 some posts became available as there was increase in the strength of the students in the school. In view of the earlier orders passed in the appeals, some of the employees approached this Court by filing Writ Petition Nos. 6814/2009 and 6815/2009. This Court by order dated 12.01.2010 directed the Education Officer to examine the claim of the petitioners on its merits and to pass necessary orders. The education officer gave hearing to the

petitioners. After hearing, it was directed to absorb the petitioners in service as Assistant Teachers from 01.07.2015. The petitioners are therefore aggrieved by grant of approval from 01.07.2015 instead of the dates of their first appointments i.e. 02.06.1996, 01.07.1996 and 02.09.1996, respectively, have approached this Court with a prayer to direct the respondent No.4-education officer to grant the approval from the date of their initial appointments and to forward the proposals with corrected dates by showing their initial appointments in the year 1996.

5] The respondents No.2 and 3 have filed their affidavit in reply. Learned AGP has also filed a reply for respondent No.4. It is the case of the respondent No.4 that in 1996, the petitioners were not appointed by following due process of law and no clear posts were available. In the School Tribunal, the Court directed only to consider the claim of the petitioners in case vacancies arise. It is their case that there was no vested right in the petitioners to get appointments with effect from the dates of their initial appointments. Whenever vacancies were created/sanctioned, the petitioners were taken into service. The

education officer has rightly granted the date as 01.07.2015. It is also the case of the respondents that the petitioners were actually appointed on 01.07.2015. It is therefore submitted that the petitions deserve to be dismissed.

6] Learned Advocate Dr. Godbole, appearing for the petitioners, vehemently argued the petitions. He submitted that the petitioners were duly appointed as Assistant Teachers in respondent No.2/management. However, they were illegally terminated, compelling the petitioners to approach the learned School Tribunal. The learned School Tribunal considering the evidence and documents has rightly allowed the appeals by considering the case of the parties. When such was the position, the petitioners' appointments in the year 1996 had to be considered legal. There is nothing to show that their appointments can be said to be illegal. It is true that immediately after this judgment, they were not appointed and as per the directions of the learned School Tribunal, they were to be appointed only after posts became available. However, he submits that it needs to be considered that since the petitioners were

appointed in the year 1996, there was no question of giving any other date by the respondent No.4-education officer for the purpose of approval. He thus submits that the petitions deserve to be allowed.

7] Learned AGP Ms. Joshi, appearing for respondents No. 1 and 4 vehemently argued that, it is a matter of record that the petitioners were appointed only after the order passed by the respondent No.4-education officer, pursuant to the orders passed by this Court in Writ Petition No.6623/2011. The education officer has thus rightly considered the claim and passed appropriate orders. No interference is required. She therefore, prays for dismissal of the petitions.

8] It is the case of the respondents Nos.2 and 3 as seen from their affidavit-in-reply that it is only because of the Writ Petition No.6623/2011, the hearing was conducted by the respondent No.4-education officer. The learned School Tribunal had directed the management to absorb the petitioners in service as and when vacancies arise. In view of direction by the School Tribunal, they were given appointments. Prior to that, there was no question of appointing the petitioners as there were no vacancies available.

9] Having heard the parties, this Court has only to consider as to whether the petitioners have made out any case to consider/treat their services from 1996, and whether it is necessary to direct respondents to grant approval from that date.

10] From the record it is seen that initially the petitioners were appointed in 1996 about which there is no dispute. The petitioners approached the learned School Tribunal is also not in dispute. This Court has gone through the judgment of the learned School Tribunal. The learned School Tribunal has clearly recorded a finding that the petitioners were appointed as Assistant Teachers for a temporary period and since there were no posts available, their services were terminated. It is only because of the concession given by the respondent-school, the learned School Tribunal passed an order dated 28.07.2011, directing the respondents to absorb the petitioners as and when vacancies became available. Prior to that, some other employees had approached this Court by filing Writ Petition Nos.6814/2009 and 6815/2009. In the said petitions, the present petitioners had filed intervention applications. In

those petitions, prayers were made by the employees to consider their appointments from 1996.

11] This Court however, directed the education officer to give an opportunity of hearing to all the concerned parties and to consider/treat the petition as representation. It was further directed to correct the seniority list and accord correct and fresh appointment date in view of initial date of appointment in 1996. It is thereafter the education officer conducted the hearing and passed the orders considering the vacancy position.

12] It is further seen that the petitioners thereafter filed various representations with the respondent-school, stating that because of wrong date of approval, they would be deprived of their service benefits as they were appointed on non-grant-basis in 2015. However, no decision appears to have been taken. It is the case of the petitioners that certain similarly situated persons i.e. Chouthe Gitaram Sakharam and More Ashok Laxman were given appointments from the year 2000-2001. They were also holding same qualification of M.Sc, B.Ed and M.A., B.Ed, respectively. It is the case of the petitioners that they are

also holding the qualifications such as M.A., B.P.Ed. and still their cases were not properly considered.

13] From the affidavit of respondent No.4, stand of the respondent seen is that initially the appointments of the petitioners were not on clear vacant posts. The appointments were not as per law/rules, and therefore, there is no question of showing their dates of appointment as of 02.06.1996, 01.07.1996 and 02.09.1996, respectively. It is only in the year 2012-13 considering the strength of the students, total five additional divisions were sanctioned. It is only thereafter, the seven posts of teachers were sanctioned on non-grant-basis. While passing the order, it is stated that the education officer has also considered the order passed by this Court in Writ Petition No.10617/2014. There is no rejoinder filed by the petitioners showing that there were posts available even prior to 2011-12.

14] It is also not shown that their initial appointments were made against clear, vacant posts. The judgment of the learned School Tribunal also shows that the appeals were allowed only on a concession

by the management that they would consider the claims of the petitioners in case posts become available. It is seen from the record that the petitioners have not filed any writ petition challenging the findings recorded by the learned School Tribunal. The petitioners, therefore, have accepted the said findings. After having accepted the finding of the Tribunal, it is not open now for the petitioners to go back from those findings.

15] This Court has considered the orders passed by the respondent No.4-education officer. The respondent No.4-education officer has also recorded that since there were no posts available, there was no question of granting approval to the petitioners from the year 1996. The respondent No.4-education officer has thus rightly granted approval from 01.07.2015. No perversity is seen in the orders passed by the respondent No.4-education officer. The petitioners have failed to show any right vested in them. Thus, this Court does not find any merit in the petitions. The order passed by Respondent No.4 can not be faulted.

16] Considering all above, this Court finds that no case is made out calling for interference at the hand of this Court. The petitions, therefore, stand dismissed. No order as to cost.

17] Pending civil applications, if any, also stand disposed off.

(JITENDRA S. JAIN, J.) **(KISHORE C. SANT, J.)**

D.A.Ethape (PA)