



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.5087 OF 2014

1. Gondwan Shikshan Prasarak Mandal,
a Public Trust registered under the
Bombay Public Trusts Act, 1950, and
a Society registered under the Societies
Registration Act, 1860, having its
Office at “Matoshree”, Yamunanagar,
Late Adv. B.S. Khanke Premises, Tukum,
Chandrapur, through its President,
Ravindra Bhagwantrao Khanke.
2. Matoshree Vidyalaya,
Tukum, Chandrapur,
Through its Headmaster,
Suryakant son of Bhagwantrao Khanke,
Chandrapur, Tq. & Distt. Chandrapur.. Petitioners
(Original Respondent Nos.1 & 2)

.. Versus ..

1. Ku. Nanda daughter of Shaderao
Munshettiwar, Aged about 54 years,
Occupation-Service, Resident of
Dewai Govindpur, Tukum,
Chandrapur, Tq. & Distt. Chandrapur.
(Original Appellant)
2. Education Officer (Secondary),
Zilla Parishad, Chandrapur.
(Original Respondent No.3)
3. School Tribunal, Chandrapur,
Through its Presiding Officer. .. Respondents

Shri M.P. Khajanchi, Advocate for Petitioners.
Shri N.S. Warulkar, Advocate for Respondent No.1.
Ms. D.V. Sapkal, AGP for Respondent Nos.2 and 3.

.....

CORAM : PRAVIN S. PATIL, J.
DATED : 28.08.2026.

JUDGMENT

1. In the present petition, the challenge is to the judgment and order passed by the School Tribunal, Chandrapur, dated 02.08.2014 in Appeal No.STC-12/2011, whereby the learned Tribunal set aside the termination of respondent no.1-employee, dated 31.05.2011 and directed the petitioners-management to reinstate her on her former post along with full back-wages from the date of her termination, till the date of reinstatement. The said judgment and order of the School Tribunal is the subject matter of challenge before this court.

2. This court, by order dated 29.09.2015, has directed to reinstate the respondent no.1-employee as per the order of the School Tribunal and granted stay only to the back-wages which were directed to be paid by the petitioners-management to the respondent no.1-employee.

3. It is pointed out that during the pendency of the present petition, the respondent no.1-employee, after reinstatement has continued in service till attaining the age of superannuation. She has attained the superannuation on 30.06.2018. After the retirement, she is also receiving the regular pension for the service which she has rendered in the petitioner no.2-school. As such only issue remained to be decided about the back-wages which was directed to be paid by the School Tribunal by petitioner nos.1 and 2 to the respondent no.1-employee from the date of termination i.e. 31.05.2011 till the date of her reinstatement i.e. 20.07.2016.

4. In the present matter, from the judgment of the School Tribunal, it is seen that the respondent no.1-employee, during the pendency of the appeal before the School Tribunal, has filed a specific affidavit dated 07.12.2014 mentioning thereby that after the date of her termination, she has not gainfully employed elsewhere nor engaged herself in any service. The said affidavit was not refuted by the present petitioners by filing the counter affidavit. As such, considering this fact, the learned

Tribunal has directed the petitioners-management to pay the full back-wages as the termination was held illegal.

5. During the course of argument, the petitioners-management specifically stated that after the termination of the respondent no.1-employee on 31.05.2011, till her reinstatement in the year 2016, the post was lying vacant in the school. No substitute was appointed on her post during the period when she was out of employment. As such no salary of the said post was released either by the Education Officer nor same was disbursed to any of the employee on that post. According to petitioner he is making this responsible statement on instructions received from Petitioner-Management.

6. In the present matter, it is pertinent to note that the petitioner nos.1 and 2 have conducted fair and proper enquiry against the respondent no.1-employee. Learned Tribunal also hold that enquiry was fair and proper in the matter. However, the punishment which imposed was interfered by School Tribunal as punishment found to be disproportionate to the charges which are levelled against Respondent-Employee. The learned Tribunal therefore set aside the order of termination

and consequence of same set aside termination order, directing petitioner to pay back-wages from the date of termination till reinstatement.

7. In the present case Petitioner-Management states that no substitute was appointed on the post after the termination of the respondent no.1-employee. Therefore, the management can always forward the proposal to the Education Officer, in view of the judgment of the School Tribunal, to release the salary of respondent no.1 against the post on which she was reinstated on her former post from the date of termination till date of her reinstatement. Hence, this petition can be disposed of by directing the petitioners-management to forward the proposal for releasing the back-wages of the respondent no.1-employee from the date of termination i.e. 31.05.2011 to 20.07.2016 to respondent no.2-Education Officer.

8. The learned AGP has however strongly opposed the present petition. According to the learned AGP, there was no role on the part of the Education Officer, while terminating the services of respondent no.1, therefore, the Government cannot be burdened for the payment of salary of the respondent-

employee for the period when she has not worked. According to the learned AGP, as the Tribunal has directed the petitioners-management to pay the back-wages, the same are to be paid by them and not by the Education Officer. Hence, the Education Officer or the Government cannot be burdened for the back-wages of the respondent-employee.

9. It is significant to note that, while disbursing grant-in-aid by Education Officer to School, same is depend upon the sanctioned post approved by his office to school. As such salary is disbursed to post and not person. Here, in the present case, as stated by petitioner, the post on which the respondent no.1-employee was working was a duly sanctioned post. After the termination of the respondent no.1-employee dated 31.05.2011, no appointment of any other employee was made on her post, consequently the salary to that post was not disbursed at the instance of the Education Officer.

10. The School Tribunal being a competent court of law has set aside that termination order and directed the reinstatement of the respondent no.1 on that post. Hence, the respondent no.1, by the judgment of School Tribunal being reinstated in

service would be entitled for salary from the date of termination till her reinstatement. Consequently, the Education Officer required to consider this aspect and disburse the unpaid salary of the post which was duly sanctioned, if it was not disbursed to another during pendency of petition. In the circumstances, the following order is passed :

O R D E R

(i) The writ petition is partly allowed.

(ii) The petitioners and Education Officer (Secondary), Zilla Parishad, Chandrapur are jointly and severally responsible for unpaid salary of Respondent no.1- Employee from period of 31.05.2011 to 20.07.2016.

(iii) Petitioners are permitted to forward proposal of unpaid salary of Respondent no.1 to Education Officer (Secondary), Zilla Parishad, Chandrapur within thirty days from the date of this order. Further, Education Officer (Secondary), in turn, shall decide the same on it's own merit, within a period of forty-five days from the date of receipt of proposal.

(iv) Rest of the Judgment and Order of School Tribunal, Chandrapur dated 02.08.2014 in Appeal No.STC-12/2011 stands confirmed. No order as to cost.

(Pravin S. Patil, J.)