

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1415 OF 2004

Smt. Padmavati w/o Maruti Vedpathak,
Age 43 years, Occupation Nil,
R/o Shikshak Colony, Jamkhed,
Taluka Jamkhed,
District Ahmednagar.

... Petitioner

Versus

1. The State of Maharashtra,
Through Secretary,
School Education Department,
Mantralaya, Mumbai.
2. The Deputy Director of Education,
Pune Division, Pune.
3. The Education Officer, (Sec.),
Zilla Parishad, Ahmednagar,
District Ahmednagar.
4. The President,
People Education Society,
Jamkhed, Taluka Jamkhed,
District Ahmednagar.
5. The Principal,
Laxmi Narayan Hoshing,
Junior College, Jamkhed,
Taluka Jamkhed,
District Ahmednagar.

... Respondents

....
Mr. Pratik Bhosale h/f Mr. A. B. Kale, Advocate for petitioner
Mrs. S. A. Dhumal, AGP for respondent Nos. 1 to 3
Mr. V. S. Bedre, Advocate for respondent Nos. 4 and 5
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**CORAM : A. V. NIRGUDE AND
V. K. JADHAV, JJ.**

DATED : 11th SEPTEMBER, 2015

ORAL JUDGMENT (PER A.V. NIRGUDE, J.) :-

1. Since 1986, the petitioner worked as Assistant Teacher in the college of respondent No.5. A crime was registered against the petitioner and other persons. The petitioner was therefore, terminated from service. The petitioner then filed an appeal before the School Tribunal. During pendency of appeal, a compromise took place between the petitioner and respondent No.5, by which, the termination order was withdrawn and the petitioner was allowed to join the services with continuity of service but without back wages.

2. In the meantime, criminal case resulted into petitioner's conviction. The petitioner was sent to jail. The petitioner could get bail from the appellate court but by that time, respondent No.5 orally told the petitioner that she would not continue and her position would be considered after the decision in criminal appeal filed by the petitioner. The appeal of the petitioner was allowed on 17.11.2003 and the petitioner stood acquitted. Thereafter, in the year 2004, the petitioner approached respondent No.5 for reinstatement. When respondent No.5 declined to reinstate the petitioner, therefore, this petition is filed.

3. At the interim stage of this petition, as per the order dated

16.6.2004 passed by this Court, the petitioner was allowed to join the services w.e.f. 21.6.2004 and since then the petitioner is working as Assistant Teacher. But now the question that remains is about the petitioner's back wages from 5.12.2003 till she was reinstated. The second question is about continuity of service. Having regard to the facts of the case, we have no hesitation to hold that the petitioner was entitled to reinstatement. But in our suggestion, the petitioner waived the right to receive back-wages. She urged that continuity of her service should be protected so as to get the benefits at the time of her retirement. Giving continuity in service to the petitioner is again in the hands of respondent No.5 employer. The continuity of service is obviously available to the petitioner because of the following circumstances:-

4. Though the petitioner was terminated, she was taken back in service vide compromise dated 11.1.2001. Had the petitioner not been convicted in the meantime, the situation that prevailed from 11.1.2001 would have continued till the date. Due to misfortune of the petitioner, she stood convicted at the trial stage in 2001, but that conviction was set aside by the appellate court in the year 2003. But for these circumstances, what was achieved by compromise dated 11.1.2001 got disturbed. But since the petitioner regained her position as held not guilty, she is obviously entitled to continuity in

service from 1.2.2001.

5. We therefore, dispose of this writ petition by allowing it partly. We direct the respondents to give continuity to the petitioner in service from 1.2.2001 without back-wages.

6. The writ petition is disposed of. Rule is made absolute in the above terms, No costs.

(V. K. JADHAV, J.)

(A. V. NIRGUDE, J.)

rlj/