

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.2333 OF 2001

Suryadas s/o Dhondiba Chavan,
Age-57 years, Occu:Senior Clerk,
Dnyandan Vidyalaya, Murum,
Tq-Omerga, Dist-Osmanabad.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
- 2) Director of Education,
Central Building, Pune No.I,
- 3) Dy. Director of Education,
Aurangabad,
- 4) Education Officer, Zilla Parishad,
Secondary Schools, Osmanabad,
- 5) Head Master,
Dnyandan Vidyalaya, Murum,
Tq-Omerga, Dist-Osmanabad,
- 6) President,
Dnyandan Education Prasarak
Mandal, Murum, Tq-Omerga,
Dist-Osmanabad,
- 7) R.S. Khune,
Drawing Teacher,
R/o-Murum, Tq-Omerga,
Dist-Osmanabad.

...RESPONDENTS

...
Mr.N.R. Solunke Advocate for Petitioner.
Mrs. M.S. Patni, A.G.P. for Respondent
Nos.1 to 4.
Mr.B.A. Dhengle Advocate for Respondent No.5.
Mr.B.R. Sontakke Advocate for Respondent No.6.
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**CORAM: S.V. GANGAPURWALA AND
A.I.S. CHEEMA, JJ.**

DATE : 29TH APRIL, 2015

ORAL ORDER :

1. Mr. Solunke, learned counsel for the Petitioner states that the Petitioner was working merely as a clerk and was not responsible for fixing pay scale of Respondent No.7 nor had authority to make payment to Respondent No.7. The Petitioner only prepared the pay-bills of Respondent No.7. The Petitioner obeyed the instructions of Headmaster. Without any inquiry, punishment of deduction of 65% amount from the monthly salary of the Petitioner was imposed. Said order is illegal. Services of Respondent No.7 were terminated by Respondent No.6. Respondent No.7 challenged termination before the School Tribunal.

The School Tribunal allowed the appeal and directed reinstatement of Respondent no.7 with 50% back-wages. The Petitioner is not at fault.

2. Mr. Sontakke, the learned counsel for Respondent No.6 submits that Headmaster, Petitioner and Respondent No.7 joined hands with each other and illegally made payment of salary bills to Respondent No.7 from 1987 to 1997. Respondent No.6 issued show cause notice to the Petitioner and after finding that reply is not satisfactory, legitimate action was taken against the Petitioner. No illegality has been committed by Respondent No.6.

3. The learned A.G.P. submits that the approval to the services of Respondent No.7 has been granted from the year 2001 and not from the date of appointment. Contention of the Petitioner in this regard is incorrect.

4. We have gone through the submissions canvassed by the learned counsel for the respective parties.

5. There appears to be letter filed in the present Writ Petition (Exhibit D - page No.27), written by the Headmaster to the Petitioner who was working as junior clerk, directing him to prepare pay bill of Respondent No.7. It appears that the Petitioner acted in consonance with the directions of erstwhile Headmaster of the Respondent institution. This Court, at the time of admitting the Writ Petition, granted stay to the order of recovery of amount.

6. It is submitted that the Petitioner retired on attaining the age of superannuation. It also appears that no inquiry was conducted prior to imposing punishment of recovery of amount. Considering the fact that Petitioner was working merely as a clerk and was not decision making

authority but had to work under the directions of Headmaster, the impugned order is liable to be quashed and set aside.

7. In light of above, we pass following order:

O R D E R

(A) The impugned order is quashed and set aside.

(B) Rule is made absolute in terms of the interim order passed. No costs. The Writ Petition is allowed, accordingly.

(C) The amount deducted from the salary of the Petitioner and lying with Respondent No.4, be paid to the Petitioner, to which the Petitioner would be legitimately entitled.

[A.I.S.CHEEMA, J.]

[S.V. GANGAPURWALA, J.]

asb/APR15