

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO.577 OF 2003

Smt. Pramila w/o Digambar Sonawane,
Age 45 years, Occu. Service as
Class IV employee, R/o village
Waghadi, Tq. Shirpur, Dist. Dhule ... PETITIONER

VERSUS

1. Shri Kisan Vidya Prasarak
Sanstha, Shirpur, a registered
Public Trust, through its
Chairman
2. The Principal,
Smt. Parvatibai Arts, Shri Bandu
Bhagwan and Smt. Hirabai
Dalal Commerce and Shirpur
Merchants Association Science
College, Shirpur, Dist. Dhule
3. The Joint Director of Higher
Education, Jalgaon Region,
Jalgaon, Dist. Jalgaon,
(Copy to be served on Govt.
Pleader, High Court of Judicature
of Bombay, Bench at Aurangabad) ... RESPONDENTS

.....
Shri S.S. Patil, Advocate for petitioner
Shri S.S. Kazi, Advocate for respondents No.1 and 2
Shri S.A. Ambad, A.G.P. for respondent No.3
.....

CORAM: S.V. GANGAPURWALA AND
 A.I.S. CHEEMA, JJ.

DATED: 15th April, 2015.

ORAL JUDGMENT (Per S.V. Gangapurwala, J.):

1. Mr. Patil, learned counsel for the petitioner submits that, the husband of the petitioner died on 2.7.1991. The petitioner applied for appointment on compassionate grounds in place of her husband with the respondents. The respondents No.1 and 2 appointed the petitioner as a Peon vide order dated 30.11.1991. However, thereafter in 1994-95 the respondents gave fresh appointment order at Rs.500/- per month. The same was not permissible. In the year 2000, again a fresh appointment order was given and on the basis of the fresh appointment order, the respondents forwarded the proposal to the respondent No.3 for approval. The same is erroneously rejected on the ground of limitation. Learned counsel for the petitioner submits that, the petitioner was appointed in the year 1991 on compassionate ground. It was fault on the part of respondents No.1 and 2 to forward the proposal in the year 2000 on the basis of fresh appointment order in the year 2000. According to the learned counsel for the petitioner, the petitioner

cannot be faulted with. The respondents be directed to at least pay salary till the year 2000. According to the learned counsel, even fresh appointment order was issued in the year 2001 which the petitioner did not accept subsequently and approached this Court.

2. Mr. Kazi, learned counsel for the respondent Management submits that the petitioner approached this Court belatedly and the petition now cannot be considered. It was as per the appointment order, the proposal was submitted. The petitioner for the first time was appointed on compassionate ground in the year 2000 and on the basis of that, proposal was submitted. The respondent No.3 rejected the proposal on the ground that the application for compassionate appointment was not made within limitation. The learned counsel for the respondent submits that, no relief can be granted to the petitioner at this stage.

3. We have heard learned A.G.P. for the State also.

4. By now the petitioner has also attained the age of superannuation. As such, the relief cannot be granted in respect

of regularisation in service as prayed by the petitioner.

5. It is a fact that the petitioner has not worked from 2001 onwards. It would be too late in the day to consider the case of petitioner for payment of salary from 1991 onwards. The appointment order for the year 1994 is on record, which state that the petitioner was appointed on the consolidated salary. In fact the petitioner ought to have assailed the same at the relevant time itself. No doubt the attitude of respondents No.1 and 2 cannot be endorsed. The respondents No.1 and 2 ought to have sent the proposal for appointment on compassionate grounds in the year 1991 itself. No reason is given by the respondents No.1 and 2 not to forward the proposal in the year 1991-92 itself when the petitioner was appointed in 1991, after the death of her husband on 2.7.1991.

6. As now the petitioner has attained the age of superannuation and the petitioner has not joined the respondent school from the year 2001, relief claimed by the petitioner for regularisation of service and arrears cannot be considered.

7. However, considering the irresponsible and high-

handed conduct of respondents No.1 and 2, we direct respondents No.1 and 2 to pay costs of Rs.25,000/- (Rupees twenty five thousand) to the petitioner within a period of eight weeks. Writ Petition accordingly stands disposed of. Rule accordingly disposed of.

(A.I.S. CHEEMA, J.)

(S.V. GANGAPURWALA, J.)