

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

WRIT PETITION NO.2319 OF 2015

Sardar Surendrasing S/o. Gulabsingh
Loniwale

...PETITIONER

VERSUS

The Chairman,
The Takht Sachkhand Shri Huzur
Apchalnagar Sahib Board, Nanded,
and Others.

...RESPONDENTS

...

Mr.Rajednra S.Deshmukh, Advocate for Petitioner;
Mr.Pratap Mandlik, Advocate for Respondent Nos. 1 and 2;
Mr.S.G.Karlekar, AGP, for Respondent Nos. 3 and 4.

WITH

WRIT PETITION NO. 2392 OF 2015

Takhat Sachkhand
Shri Hujur Abchalnagar Sahib Board
Nanded, Through its
Superintendent.

...PETITIONER.

VERSUS

State of Maharashtra
and another.

...RESPONDENTS.

...

Mr.Pratap Mandlik, Advocate for Petitioner;
Mr.S.G.Karlekar, AGP, for Respondent No.1 State;
Mr.Rajendra Deshmukh, Advocate for Respondent No.2.

...

CORAM: R.M.BORDE

AND

P.R.BORA, JJ.

Date of Order: 13th October,2015

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PER COURT:- .

1) Since both these writ petitions are arising out of the order dated 26th August, 2014 passed by the Hon'ble Minister of State (Revenue) in file No.GUR-0614-Pra.Kra.234/L-4, we deem it appropriate to decide these writ petitions by this common order.

Writ Petition No. 2319/2015 is filed by Sardar Surendrasingh S/o Gulabsingh Loniwale (hereinafter referred to as 'the employee' for the sake of brevity), whereas, writ petition No.2392/2015 is filed by the Takhat Sachkhand Shri Hujur Abchalnagar Sahib Board, Nanded (hereinafter referred to as 'the employer' for the sake of brevity).

2) Employee has questioned the impugned order to the extent it relates to denial of the back wages to the Petitioner from his termination till date of his reinstatement; whereas employer has prayed for quashment of the impugned order. Vide impugned order, the Hon'ble Minister has directed the employer Board, to reinstate the employee with continuity of service, by setting aside the order dated 18.06.2008, whereby, the said employee was dismissed from the services of the Board.

3) After having heard the learned counsel for the respective parties, apparently it is revealed that, the appeal, so filed by the employee before the Hon'ble Minister was untenable. In the appeal filed before the Hon'ble Minister, the employee has admittedly challenged the order dated 18.06.2008 passed by the Superintendent, Takhat Sachkhand Shri Hujur Abchalnagar Sahib Board, Nanded . It is not in dispute that, being an employee of the Board, services of the employee are governed by the provisions of the Nanded Sikh Gurudwara Suchkhand Shri Huzur Apchal Nagar Sahib Act, 1956 (hereinafter referred as 'the Act').

4) Section 46 of the said Act provides that, *"an appeal shall lie to the Board from an order passed by the committee or by the Superintendent under the provisions of this Act."* It is thus evident that, the employee must have filed an appeal to the Board, if he was aggrieved by the order passed by the Superintendent, and he should not have approached the Hon'ble Minister, that too under the provisions of Maharashtra Land Revenue Code, as is revealed from the order passed by the Hon'ble Minister. The order passed by the Hon'ble Minister, therefore, cannot be sustained and deserves to be set aside.

5) The learned Counsel appearing for the employee has sought liberty to present an appeal, as envisaged under section 46 of the Act. The present writ petitions, therefore, can be disposed of by the following order.

ORDER

(i) The order dated 26.08.2014, passed by the Hon'ble Minister of State (Revenue) is quashed and set aside.

(ii) It would be open for the Petitioner in writ petition No.2319/2015 to present an appeal under section 46 of the Nanded Sikh Gurudwara Suchkhand Shri Huzur Apchal Nagar Sahib Act, 1956. If such appeal is presented by the said Petitioner within four weeks from the date of this order, the Takhat Sachkhand Shri Hujur Abchalnagar Sahib Board, Nanded, shall entertain the same, as if it has been filed within the prescribed period of limitation, and decide it as expeditiously as possible, preferably within the period of two months from receipt of such appeal.

With the directions as above, both the writ petitions stand disposed of.

(P.R.BORA)
JUDGE

(R.M.BORDE)
JUDGE

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