

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
LETTERS PATENT APPEAL NO.203 OF 2011 IN
WRIT PETITION NO.6816 OF 2010

Digambar s/o Bhagwanrao Ghadge Patil,
age: 47 years, Occ: Employed,
R/o at Deodhanora, Tq. Kallam,
District Osmanabad.

Appellant

Versus

01 The State of Maharashtra;

02 The Minister,
Rural Development Department,
Mantralaya at Mumbai.

03 The Additional Divisional Commissioner,
Aurangabad Division, Aurangabad.

04 Chief Executive Officer,
Zilla Parishad, Osmanabad.

05 The Head Master,
Zilla Parishad,
Primary School, Borgaon (Bk).,
Tq.Kallam, Dist.Osmanabad.

Respondents

Mr.B.V.Thombre, advocate for the appellant.
Mr.N.B.Patil, A.G.P. for Respondents No.1 to 3.
Mr.K.J.Ghute Patil, advocate for Respondents No.4 & 5.

CORAM : R.M.BORDE &

P.R.BORA, JJ.

DATE : 07th August, 2015

ORAL JUDGMENT (Per R.M.Borde, J.):

1 The appellant is raising exception to the order dated
01.04.2011, passed by the learned Single Judge in Writ Petition

No.6816 of 2010, confirming the order of dismissal from service passed by the employer, which has also been upheld by the appellate authority i.e. Additional Commissioner.

2 The appellant was in employment of Respondent No.4 as an Assistant Teacher since 1988. He served the *Zilla Parishad* for about twelve years and thereafter remained absent from 2001. According to the appellant, since he was mentally ill, he could not remain present from 2001 to 2006. It is contended that after recovery from mental illness, he wanted to join duties, however, he was not allowed to join duties.

3 The contention of the respondents is that since the appellant remained continuously absent, departmental enquiry was initiated against him. The appellant did not respond to the notices issued during department enquiry proceedings and as such, action of termination of his services was taken. The order passed by the disciplinary authority was subjected to challenge by presenting appeal to the Additional Commissioner, who dismissed the appeal.

4 It does appear that from 2001 to 2006, there is absolutely no record indicating that appellant was suffering from any mental illness or that he has informed this fact to the employer. The appellant relied only on a certificate issued by the Psychiatrist wherein, while recording case history, an endorsement is made that the patient appears to be suffering from 2001. The very Psychiatrist, who has given treatment to the appellant, has not been examined. Apart from the certificate issued by the

Psychiatrist, there is absolutely no evidence to indicate that the appellant was suffering from mental illness. There is no justification for continued absence of the appellant from 2001 to 2006.

5 In this view of the matter, decision rendered by the disciplinary authority, at the conclusion of departmental enquiry, which has been confirmed by the appellate authority, does not call for any interference. In our considered opinion, learned Single Judge has not committed any error in refusing to cause interference in the matter. Appeal is devoid of substance.

6 Letters Patent Appeal stands dismissed. Pending Civil Applications do not survive and stand disposed of.

P.R.BORA
JUDGE

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R.M.BORDE
JUDGE