

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4681 OF 2005

1. Shri Sane Guruji Smarak
Shikshan Sanstha, Udgir,
District Latur, Through its Secretary
Ashok S/o Ramrao Mortale,

2. Late Manikrao Koyale Borolekar,
Niwase Apang Vidhyalaya, Nilanga,
Dist.Latur, Through its Principal

PETITIONERS

VERSUS

1. Umakant S/o Bhagwat Shette,
Age-36 years, Occu-Service,
R/o Datta Nagar, Nilanga,
Tq.Nilanga, Dist.Latur,

2. District Social Welfare Officer,
Office Near Usha Kiran Thetar,
Barshi Road, Latur

RESPONDENTS

Mr.V.D.Salunke, Advocate for the petitioners.
Mr.R.D.Biradar, Advocate for respondent No.1.
Mr.S.G.Sangle, AGP for respondent No.2.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 23/09/2015

ORAL JUDGMENT :

1. This petition was admitted by the order of this Court dated 23/09/2005. By way of interim relief, the direction of the School Tribunal that the petitioners should pay the back wages to the respondent/employee, has been stayed.

2. The petitioners are aggrieved by the judgment and order dated 22/06/2005 delivered by the School Tribunal in Appeal No.252/2004. The directions issued by the School Tribunal while delivering the impugned judgment read as under :-

- “1. The appeal is allowed as under :*
- 2. The impugned order dated 27/01/2000 is hereby quashed and set aside.*
- 3. The appellant is already reinstated w.e.f. 08.10.2004 however he shall be entitled to continuity of service as well as back wages with all consequential benefits as stated herein above para no.14.*
- 4. The R/M alone shall pay the arrears of back wages within two months and on their failure the Respondent No.3 shall pay the said dues out of the due grants of the management and be directly paid to the appellant.”*

3. During the course of the hearing in this matter, Mr.Salunke, learned Advocate for the petitioners submitted on instructions that the respondent, who has been reinstated in employment w.e.f. 08/10/2004, and who has been continued in employment even since, would be further continued. However, the petitioners are seriously aggrieved by the directions of the School Tribunal that the petitioners should pay arrears of back wages for the period 27/01/2000 till

07/10/2004.

4. Mr.Biradar, learned Advocate appearing on behalf of the sole respondent, who is present in the Court, submits on instructions that the respondent is willing to forgo the entire back wages for the period 27/01/2000 till 07/10/2004, provided the dispute between the parties is put to rest.

5. Mr.Salunke submits that the Management has no objection if the respondent/employee continues in employment. However, this statement is applicable as long as the respondent works in a disciplined manner. This protection shall, save and accept the disciplinary proceedings in the event the respondent / employee commits any act which may amount to a mis-conduct, protect the respondent. The respondent is agreeable.

6. Considering the above, both the litigating sides do not intend to canvass their contentions as well as the grounds raised.

7. In the light of the above, this petition is partly allowed by consent. The impugned order dated 22/06/2005 delivered by the School Tribunal in Appeal No.252/2004 stands modified to the extent

of the waiver of back wages.

8. It is undisputed that in so far as payment of salary to the teaching and non-teaching staff of special schools are concerned, 40% of the salary/wages are borne by the State Government. The respondent/employee, therefore, prays that respondent No.2/District Social Welfare Officer shall consider the outcome of this petition as well as the interim order passed by the School Tribunal dated 30/01/2001 by virtue of which respondent No.1 was drawing 60% salary from the petitioners / employers. Respondent No.2 may, therefore, pass an appropriate order granting the remainder 40% of the salary in accordance with the Rules.

9. The learned AGP submits that if the proposal is forwarded by the petitioners/Management, same will be considered in accordance with Rules and necessary orders to the extent of 40% salary of the respondent, would be passed within a period of 12 (twelve) weeks from today.

10. Considering the above, the Management shall accordingly forward the proposal of the respondent/employee for payment of the residual payment of wages within 4 (four) weeks from today and

respondent No.2 shall pass necessary orders in accordance with rules within 12 (twelve) weeks thereafter.

11. It is made clear that this Court has not dealt with the issue of jurisdiction raised by the petitioners in this petition in the light of the peculiar fact situation, as recorded hereinabove.

12. Rule is, therefore, made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)