

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.6189 OF 2015.

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.B.N.Palve, advocate for the petitioner
 Mr.K.J.Ghute Patil, Asstt. Govt. Pleader for the State.
 Mr.S.V.Natu, advocate for Respondent Nos.3 and 4.

**CORAM : S.V.GANGAPURWALA &
 V.K.JADHAV, JJ.**

Date : 11.08.2015.

PER COURT :

1. Heard.

2. Mr.Palve, learned counsel for the petitioner states that proposal seeking approval to the appointment of the petitioner is rejected on the ground that as per the Government Resolution dated 23rd October 2013, the post of Peon is not available with the Respondent-School. According to the learned counsel, the petitioner was appointed in the year 2007 on compassionate ground was illegally terminated. The petitioner filed appeal before the School Tribunal. The appeal of the petitioner is allowed. In Writ Petition filed by the Management, the petitioner waived back wages

and the Management agreed to post the petitioner at a vacant post in the Modern High School, Akole. The petitioner is also granted continuity in service, as such the services of the petitioner from the year 2007 ought to have been considered. The Government Resolution dated 23rd October, 2013 would not come in the way of the Petitioner.

3. Mr.Natu, learned counsel for the Management does not dispute that the petitioner is granted continuity in service and only as there was a vacant post at Modern High School, the petitioner is posted in the said High School on and from 1.11.2013.

4. Learned Asstt. Govt. Pleader states that as per the staffing pattern laid down vide Government Resolution dated 23.10.2013, the post of Peon is not available with the said School and as such the order is rightly passed.

5. We have considered the submissions. The petitioner is appointed in the year 2007 by the Respondent No.3 Management. Thereafter, his services were terminated. The appeal filed by the petitioner is allowed. The order of reinstatement is confirmed by this Court and so also continuity in service. The petitioner had waived back wages. It is by way of convenience and the availability of vacant post as on the said date, the Management agreed to accommodate the petitioner with Respondent No.4 School. While considering the proposal seeking approval to the

appointment of petitioner the position as on the date of appointment will have to be considered and subsequently if as per any Government Resolution or staffing pattern approved at a latter point of time, the post becomes surplus. The petitioner can be declared as surplus. However, the same could not have been a ground to reject the proposal.

6. In light of the above, the impugned order is quashed and set aside. The Education Officer shall reconsider the proposal seeking approval to his appointment in light of the observations made herein.

7. The Writ Petition is disposed of. No costs.

(V . K . JADHAV , J .)

(S . V . GANGAPURWALA , J .)

Dr.11.08.2015.
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