

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO. 6141 OF 2008

HARISHCHANDRA NAMDEV KAWALE

VERSUS

THE STATE OF MAHARASHTRA AND ORS

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Advocate for Petitioners : Mr. K J Suryawanshi

AGP for Respondents-State: Mr. K. J. Ghute Patil

Advocate for Respondents 3 and 4 : Mr. S. V. Kshirsagar h/f Mr. Ajay
Deshpande

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**CORAM : S. V. GANGAPURWALA &
V. L. ACHLIYA , JJ.****DATE : 30th January, 2015****PER COURT :**

1. Mr. Suryawanshi, the learned counsel for the petitioner submits that the services of the petitioner from the year 1979 are not being computed for the purpose of pension. The learned counsel submits that even the School Tribunal, while allowing the appeal filed by the petitioner, has directed the present respondent Nos. 1 to 3 to give continuity of services to the petitioner with effect from 07.09.1979 and was further held entitled to the claim of Rs. Rs.35,212/-.

2. The learned counsel for the petitioner submits that even when the pension papers are forwarded, the continuity is not given from 07.09.1979 to 12.06.1988 by letter dated 22.07.2008.

3. Learned AGP submits that the petitioner was not eligible and qualified. Even the approval was not granted. As such, the said services cannot be considered for the payment of pension.

4. We have asked the learned AGP as to whether the order passed by the School Tribunal was assailed at any point of time. The learned AGP, on instructions, states that the said order passed by the School Tribunal is not assailed in any other proceedings.

5. The order passed by the School Tribunal is a judicial order which is binding on the parties. The Deputy Director was party to the said proceedings. The School Tribunal has passed the following order.

“2. The Resp. No.1 to 3 are hereby directed to give continuity of service to the applicant w.e.f. 7-9-79 and further the entitlement claim as per the statement at Exh.4/4 i.e. Rs.35,212/- after verification of the same.

3. On failure of the Management to pay the above amount of Rs.35,212/- or whatever that becomes due and payable after verification, the Resp. No.3 shall deduct it from the future due grants payable to the management and the same be paid directly to the applicant.”

6. In the light of the said directions given by the School Tribunal, the respondents cannot be heard to say that the petitioner is not entitled for continuity in service from 1979.

7. in the light of above, the impugned order is quashed and set aside. Rule is made absolute in terms of prayer clauses (B), (C) and (D) however with no order as to costs.

8. The proposal shall be forwarded expeditiously and preferably within two months from the date of this order.

9. Writ petition disposed of.

(V. L. ACHLIYA, J.)

(S. V. GANGAPURWALA, J.)

JPC