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

WRIT PETITION NO.10664 OF 2014

Manisha Gangadhar Gadewad. ..Petitioner

-Versus-

Vasantrao Naik Shikshan Prasarak
Mandal, Aurangabad and others. ..Respondents

.....

Mr.S.M.Vibhute, Advocate for the Petitioner.
Mr.S.S.Jadhavar, Advocate for the Respondent Nos.1 to 3.
Mr.K.M.Suryawanshi, AGP, for the Respondent No.4.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 11th March, 2015

Per Court:

1 I have heard the learned Advocates for the Petitioner and the
Respondent/ Institution at length.

2 After considering their submissions, it emerges from the
record that the School Tribunal has failed to consider the following
aspects:-

(a) Whether, the termination of services by way of retrenchment
under Rule-27 of the MEPS Rules, 1981 on the basis of
surplusage/ seniority, would affect the members of the

Backward Classes or not. As such, the applicability of Rule 27(e) of the MEPS Rules, 1981 has not been properly considered by the School Tribunal in deciding the appeal of the Petitioner.

- (b) It is conceded that the Petitioner was on unpaid maternity leave from 01.04.2010 to 30.09.2010 for a period of 180 days. Rule 16(14) r/w Rule 16(15) & 16(16) would, therefore, result in the Petitioner being entitled only for 90 days maternity leave and as such, remaining portion of 90 days are to be debited from the period of 3 years for which she was appointed initially.
- (c) Whether, by applicability of Rule 16(15) and 16(16) of the MEPS Rules, 1981, after debiting 90 days from the period of three years of the Petitioner, would mean that the Petitioner has not completed the three years period.
- (d) Whether, in the light of the correspondence between the Respondent/ Institution by its letter dated 26.08.2011 addressed to the Respondent No.4/ Deputy Director of Education and the response of Respondent No.4 by communication dated 12.12.2011, would indicate that there is no workload available for the Petitioner for the subject of Biology and whether, it would amount to abolition of the

post.

3 Both the learned Advocates appearing for the litigating sides, after taking me through the petition paper book, have conceded that the above said issues are decisive, but were not considered by the School Tribunal and the same would have an impact on the outcome of Appeal No.42/2012 preferred by the Petitioner.

4 In such circumstances, the impugned judgment and order dated 24.09.2014 delivered by the School Tribunal, Aurangabad is quashed and set aside. Appeal No.42/2012 is restored to the file of the School Tribunal, Aurangabad for a fresh hearing.

5 Needless to state, the issues set out herein above, which were not considered by the School Tribunal, are kept open so as to enable the litigating sides to advance their contentions in support of their cases and the School Tribunal is, therefore, expected to decide the Appeal by taking into account the above said issues.

6 Since the matter involves a service dispute, the School Tribunal shall endeavour to decide Appeal No.42/2012 as expeditiously as possible and preferably on or before 31.10.2015. The litigating sides shall

appear before the School Tribunal in Appeal No.42/2012 on 01.04.2015. A separate notice of hearing need not be issued by the School Tribunal. The litigating sides shall cooperate the School Tribunal for the expeditious disposal of Appeal No.42/2012 and shall refrain from seeking adjournments on unreasonable grounds.

7 The Writ Petition is, accordingly, partly allowed. No order as to costs.

(RAVINDRA V. GHUGE, J.)