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

WRIT PETITION NO. 11591 OF 2015

RAVINDRA SADASHIV MORE.

VERSUS

PRESIDENT PACCHIM KHANDESH BHAGINI SEVA MANDAL AND
OTHERS

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Advocate for Petitioner : Shri Sapkal V.D. and Shri V.B.Jagtap.

AGP for Respondent No.4: Shri S.N.Kendre.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 02nd December, 2015

Per Court:

1 The Petitioner is aggrieved by the judgment and order dated 28.08.2014 delivered by the School Tribunal in Appeal No.15/2011 by which, the appeal was dismissed and the challenge to the termination dated 01.02.2011 was negated.

2 The Petitioner submits that there was an advertisement calling for applications for the post of Medical Officer, published on 03.06.2008. The interviews were held on 10.07.2008. The Petitioner was appointed on 11.07.2008. The proposal for approval was sent on 15.04.2009 and the same was rejected on 14.07.2009. The Petitioner was thereafter, terminated. The said termination was not challenged before

any authority.

3 The Petitioner submits that an advertisement was once again published on 11.09.2010. He was appointed on 22.11.2010 and was terminated on 01.02.2011. This termination was called in question in Appeal No.15/2011 which has been dismissed by the impugned judgment.

4 It is strenuously submitted by the Petitioner that he was appointed on 11.07.2008 and though he was terminated thereafter, his appointment on 22.11.2010 should be assumed to be a continuous service. His termination on 01.02.2011 is under the orders of the Vice Principal and such termination is unsustainable.

5 It is further submitted that the School Tribunal has failed to apply it's mind to the facts of the case and has erroneously dismissed the appeal on the ground that the appointment of the Petitioner on 22.11.2010 was pursuant to the leave vacancy. The School Tribunal should have appreciated that the Petitioner was interviewed on 10.07.2008 and appointed on 11.07.2008. Notwithstanding his termination which was not challenged prior to his appointment dated 22.11.2010, an order of termination at the behest of the Vice Principal is non-est. It is, therefore, prayed that the impugned judgment deserves to be quashed and set aside.

6 I have considered the submissions of the learned Advocate as have been recorded herein above.

7 It is undisputed that the termination of the Petitioner pursuant to his appointment on 11.07.2008 has not been challenged. The said termination has, therefore, attained finality. Be that as it may, the appointment order dated 11.07.2008 clearly indicates that his appointment was from 11.07.2008 till 30.04.2009 on temporary basis in view of the vacancy created. His said tenure was to conclude by efflux of time and without any prior notice. The said termination has not been challenged as has been submitted by the Petitioner.

8 The appointment order of the Petitioner dated 22.11.2010 indicates that a permanent employee had proceeded on leave and on account of the said leave vacancy, the Petitioner was appointed for the period 22.11.2010 till 30.04.2011. It was made clear that since it is as against leave vacancy, such appointment shall be purely temporary in nature and shall not create any right in favour of the Petitioner to seek benefits of service.

9 By communication dated 01.02.2011, the Vice Principal has

conveyed to the Petitioner that the Deputy Director of Vocational Education, Nashik has declined to grant approval to the temporary engagement of the Petitioner.

10 In Appeal No.15/2011, the Management has not come with a stand that the termination of the Petitioner was not at the behest of the Management or that the Vice Principal was not empowered to communicate the refusal of approval to the Petitioner.

11 In the light of the above, I do not find that the School Tribunal has committed any error in coming to the conclusion that the Petitioner has no right to continue in employment since he was engaged purely as against a leave vacancy. The impugned judgment, therefore, cannot be said to be perverse or erroneous.

12 This Petition being devoid of merit is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)