

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1) WRIT PETITION NO. 11800 OF 2015

905 WRIT PETITION NO. 11800 OF 2015

VENKAT MOHANRAO PATIL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. Maniyar Irfan D
AGP for Respondent State: Mr. S.D. Kaldate
Mr. S S Thombre, Adv., for R-5

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CORAM : S.S. SHINDE & P.R. BORA, JJ.
Dated: December 09, 2015

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PER COURT :-

1. This petition takes exception to the impugned order dated 24.11.2015 issued by respondent no.2.
2. Learned Counsel appearing for the petitioner submits that, the management has every authority to appoint the employee, and in adherence to the provisions of the Code, the petitioner's appointment was made by the management, and Respondent no.2 has no authority to disturb the appointment made by the management. He further submits that the petitioner was appointed on Part Time basis in the year 1995, and therefore, he is a senior-most teacher in respondent school. Therefore, relying upon the grounds taken in the petition, annexures thereto, and the earlier order passed by this Court on 4.8.2014 in Writ Petition No.3862/2011, learned Counsel appearing for the petitioner submits that the petition may be allowed.

agp/-

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3. On the other hand, learned counsel appearing for respondent no.5 invited our attention to the order passed by this Court on 4th August, 2014, in Writ Petition No.3862/2011, and in particular paragraph nos. 3 and 4 thereof, and submits that challenge to the appointment of respondent no.5, at the instance of the petitioner has failed, and this Court has concluded that, the appointment of respondent no.5 was in adherence to the procedure established and, therefore, declined to grant any relief to the petitioner, except granting liberty to file a representation in case of availability of Full Time Speech Therapist's post.

4. We have heard learned Counsel appearing for the petitioner, learned A.G.P., and learned Counsel appearing for respondent no.5. On careful perusal of the order dated 4th August, 2014, in Writ Petition No.3862/2011, it is abundantly clear that, this Court, on merits as well as on the ground of laches, declined to upset the appointment of respondent no.5 at the instance of the petitioner. Though liberty was granted to the petitioner to file a representation, it was only with the understanding that, if the post of Full Time Speech Therapist is available, in that case, prayer of the petitioner, for appointment on the said post, can be considered. In that view of the matter, we cannot accept the contention of the

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petitioner that the management has authority to appoint the petitioner by upsetting the appointment of respondent no.5. In that view of the matter, no case is made out for interference in the impugned order.

. The petition is rejected.

(P.R. BORA, J.)

(S.S. SHINDE, J.)

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