

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION***

CIVIL WRIT PETITION NO. 10977 OF 2013

Mr. Sanjay Shripati Buran.

... Petitioner.

V/s.

State of Maharashtra and Ors.

... Respondents.

Mr. V.K. Bodhare a/w. A.M. Joshi for the Petitioner.

Mr. A.D. Kango, AGP for Respondents 1 and 2.

Mr. Sagar Mane for Respondent Nos. 3 and 4.

Mr. N.V. Bandiwadekar for Respondent No.5.

CORAM : N.M. JAMDAR, J.

DATE : 11 SEPTEMBER, 2015.

P.C. :-

In this Writ Petition the Petitioner – teacher challenges the order of the School Tribunal dated 4 April 2013, dismissing the Appeal filed by the Petitioner.

2. The Petitioner had filed an Appeal bearing No. 29 of 2008 in School Tribunal, Kolhapur contending that he was appointed pursuant to an advertisement issued in June 2002 and he continued to work till 12 March 2008 wherein he was not allowed to work any further which amounted to otherwise

termination. He accordingly sought relief of reinstatement in services of the Respondent – Management, which was refused by the impugned order.

3. The School Tribunal has rejected the Appeal filed by the Petitioner on two counts, firstly that the appointment of the Petitioner was not legal and proper and consequently, the Appeal was barred by limitation.

4. As regard the validity of the appointment of the Petitioner, it is a contention of the Petitioner that he was appointed pursuant to an advertisement issued in June 2002. However, it has come on record that the time when such advertisement was issued, there was only one and half post sanctioned, as a school had recently commenced. One teacher Smt. Jasud was appointed on the sole sanctioned post. The School Tribunal taking note of this fact came to the conclusion that the appointment of the Petitioner on this post pursuant to the said advertisement could not be held as legal and proper as there was no such proper sanctioned post. It has also come on record that subsequently when further posts were sanctioned, the Petitioner was not appointed by following a procedure laid down in the Act of the Maharashtra Employees of Private Schools (Conditions of Services) Regulations Act, 1977 and the Rules thereunder. It is also admitted position that there is no appointment order in favour of the Petitioner. The Petitioner simply seems to have continued

on the post without there being any legal sanction to his appointment. Therefore, there is no error in the view taken by the School Tribunal that the appointment of the Petitioner was not legal and valid.

5. Second is the aspect of delay. Respondent No.5 was appointed on 17 June 2007 and his appointment was duly approved. The Petitioner had made a grievance to the Education Officer, Kolhapur on 15 December 2007 that for some time he was not allowed to sign a muster-roll. Prior to that decision, The Petitioner initially did not make the Respondent No.5 as party Respondent however, subsequently joined the Respondent No.5 as party Respondent to the Appeal. Therefore, even as per record it was clear that the date of otherwise termination would be 16 June 2007. The Appeal filed by the Petitioner on 2 April 2008 was clearly beyond the period of limitation. The Petitioner did not file any application for condonation of delay neither there is any explanation. Therefore, the School Tribunal was justified in coming to the conclusion that the Appeal required to be dismissed on this count also.

6. In view of the above, there is no error in the decision of the School Tribunal and the Writ Petition cannot be entertained and is accordingly rejected.

(N.M. JAMDAR, J.)

C E R T I F I C A T E

Certified to be true and correct copy
of the original signed Order.