

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION No.1266 OF 1998

(Sau.Rekha Deepak Chimote .vs. Secretary, Govt. of Mah., Ministry of Education,
Bombay and Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : B.P.DHARMADHIKARI &
A.P.BHANGALE, JJ.

DATE : 5th JANUARY, 2015.

Heard Mr.A.P.Wachasundar, learned Counsel for the petitioner, Mr.T.R.Kankale, learned A.G.P. for respondent nos. 1 to 3 and Mr.M.D.Lakhey, learned Counsel for respondent nos. 4 and 5.

The controversy appears to have been settled amicably by the petitioner as also respondent nos. 4 and 5. Respondent nos. 1 to 3 are not parties to it.

The petitioner has agreed not to claim any monetary benefit from respondent nos. 4 and 5 on account of the cause which forms subject matter of the Writ Petition.

The petitioner, however, claims continuity in service from the year 1992-93 for the purposes of calculation of pension and other retirement benefits.

Mr.M.D.Lakhey, learned Counsel for respondent nos. 4 and 5 submits that the date of entry of the petitioner is 1.7.1998. Mr.M.D.Lakhey, learned Counsel for respondent nos. 4 and 5 further states that if the petitioner does not claim any monetary benefits from respondent nos. 4 and 5,

the management shall not discontinue her services.

Mr.A.P.Wachasunder, learned Counsel for the petitioner as well as Mr.M.D.Lakhey, learned Counsel for respondent nos. 4 and 5 states that the petitioner is receiving regular salary from the work being done.

Mr.T.R.Kankale, learned A.G.P. for respondent nos. 1 to 3 has pointed out that, apart from the dispute about the date of entry in service, the approval earlier given appears to be conditional. He submits that, thus, the question of grant of approval to the employment of petitioner is not looked into by respondent nos. 1 to 3 in accordance with law.

In this situation, we find that, looking to the compromise reached between the parties, the petitioner shall continue in service and respondent nos. 4 and 5 shall not take any action to the prejudice of such continuation because of the cause which forms subject matter of the present petition. However, this position shall be subject to the petitioner's not claiming any monetary benefits whatsoever from respondent nos. 4 and 5 on account of said cause.

Insofar as grant of continuity of service is concerned, respondent nos. 4 and 5 have no objection to grant such continuity from 1.7.1998. The petitioner is claiming it from the earlier date. The issue can be gone into by respondent nos. 2 and 3 while considering the question of grant of approval to the service of the petitioner.

The petitioner to make a suitable representation in this respect within a period of four weeks from today. Respondent nos. 4 and 5 shall also submit their reply and

produce necessary documents before respondent nos.2 and 3 (as the case may be) for their perusal.

Respondent nos. 2 and 3 shall, after considering the documents so produced, decide about the date of entry and also the date from which continuation can be given to the petitioner. Such a decision shall be taken by the concerned respondent independently, on its own merits and being uninfluenced by the compromise recorded by this Court, within a further period of eight weeks.

With these directions, the Writ Petition is disposed of. No costs.

JUDGE

JUDGE

jaiswal