

appointed as Craft Teacher on 11.09.2000 in Respondent No.6 School. According to the learned counsel, the petitioner was continuously discharging his duties, however, the Management did not forward the proposal seeking approval to the appointment of the petitioner. On 11.02.2005, services of the petitioners were orally terminated. The petitioner filed an appeal on 07.05.2006 before the Appellate Authority. Vide judgment and order dated 09.05.2007, the Appellate Authority allowed the appeal, set aside the termination and directed respondent Nos. 6 and 7 to allow the petitioner to resume duties.

2. Writ petition was filed against the said order by the respondents. This Court, vide judgment and order dated 29.09.2007, dismissed the said writ petition challenging judgment of the Appellate authority directing reinstatement of the petitioner. The learned counsel submits that the said order is not being implemented. The application was given to the Social Welfare Officer. The Social Welfare Officer directed respondents 6 and 7 to accommodate the petitioner, however to no avail.

3. The learned counsel further petitioner submits

that the petitioner was subsequently allowed to join on 16.01.2009 in respondent No.6 school. The President of Respondent No.6 school again orally terminated the services of the petitioner. The Social Welfare Officer directed the respondents to release salary of the petitioner as oral termination is illegal and directed respondents to allow the petitioner to join the services. The learned counsel submits that again the appeal was filed by the petitioner. Respondent No.2, after hearing parties, allowed the appeal and set aside the second termination and directed the respondents to reinstate the petitioner. The respondents have not taken steps to implement the said orders. The respondents even failed to grant approval to the appointment of the petitioner. The learned counsel submits that the petitioner is in continuous services since 11.09.2000. The petitioner is not being paid salary nor is allowed to discharge his duties. On the contrary, respondent No.3, on 13.01.2012 issued a letter thereby refusing to grant approval at present and stated that whenever the post becomes vacant, approval would be granted. The learned counsel submits that the even as per the seniority list maintained by the respondents, the person junior to the petitioner

has been granted approval and the petitioner, though is senior, is not being granted approval.

4. Mrs. Deshpande, the learned AGP states that the order passed by the appellate authority cannot be implemented as it is. The person who is junior to the petitioner in the seniority list has been granted approval pursuant to the orders passed by the appropriate Court. According to the learned AGP, there are five posts excess with the respondent Institution. There were only 13 sanctioned posts when the respondent trust was running two schools. One school is closed in the year 2007 and as such, there are only four sanctioned posts in the school which was being run and in the closed down school there were 9 sanctioned posts. Excess teachers are employed by the management and as such approval cannot be granted. No error is committed by the the Authority while issuing the impugned communication.

5. Mr. Rodge, the learned counsel appearing for respondent No.8 submits that though in the seniority list produced on record, respondent No.8 is shown at serial No.19, respondent No.8 is senior to the petitioner and his date of appointment is of the year

1998 whereas, the petitioner is appointed in the year 2000.

6. After hearing the arguments of the learned counsel for the respective parties, it transpires that the there is no vacant posts in respondent No.6 institution where the petitioner was working.

7. The management forwarded a proposal seeking approval to the appointment of the petitioner. None of the parties dispute that the petitioner was appointed on 11.09.2000. Common seniority list produced on record, which is relied by all the parties, shows that respondent No.8 is at Serial No.19, whereas the petitioner is at Serial No.18. Appointment of respondent No.8 is already approved, may be under the orders of the Court. The same now cannot be a subject matter of debate. The order passed by the appellate authority has become final and the same is not assailed by any party. The said order directs reinstatement and also other reliefs are granted.

8. Today, it is not disputed that respondent No.6 school does not have vacant post. The petitioner is working since the year 2000. It is fault of the Management in not forwarding the proposal seeking

approval to the appointment of the petitioner. For the same, the petitioner cannot be made to suffer. Even as per seniority list, relied by the respondent State, the person junior to the petitioner is already given approval, may be the approval is erroneously given, that cannot be a precedent. However, it is fact that the orders passed by the appellate authority is not assailed by any of the parties which directs reinstatement of the petitioner. It would not be possible for respondent no.6 also or the authorities to direct accommodation of the the petitioner in respondent no.6 as there is no vacant post. To resolve this anomalous situation, we pass following order:

O R D E R

- i. The respondent authorities are directed to grant approval to the appointment of the petitioner, if there is no other legal impediment. The approval shall not be rejected only on the ground that the school in which the petitioner was working does not have vacant post.
 - ii. The petitioner shall be kept in list of surplus candidates and shall be absorbed in any other Handicap School. The said exercise be done expeditiously.
9. Writ petition No.435/2011 is accordingly

disposed of.

10. In view of disposal of writ petition No.435/3022, writ petition No.6840/2011 stands disposed of. Civil applications also stand disposed of.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC