

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO.2050 OF 1996  
(Old No.5256 OF 1991 - Bombay)  
WITH  
CIVIL APPLICATION NO.13121 OF 2014

The Navapur Education Society,  
Navapur, District Dhule,  
Through its Chairman

PETITIONER

VERSUS

1. Ansari Ishtiyaque Ahmed Aziz Abdul  
R/o Plot No.93, Nayapura,  
Hakeem Nagar, Malegaon, Dist.Nashik,
2. The Education Officer,  
Zilla Parishad, Dhule,
3. The State of Maharashtra

RESPONDENTS

Mr.P.V.Barde, Advocate for the petitioner.  
Ms.A.N.Ansari, Advocate for respondent No.1.  
Ms.S.S.Raut, AGP for respondent Nos. 2 and 3.

( CORAM : RAVINDRA V. GHUGE, J.)  
DATE : 31/03/2016

ORAL JUDGMENT :

1. The petitioner is aggrieved by the judgment and order dated 17/09/1991 delivered by the School Tribunal, Bombay in Appeal No.GEN/252/DHL-12 of 1988. By the said judgment, the respondent was granted reinstatement with continuity and all monetary benefits.
2. The petitioner submits that the respondent was appointed on 11/07/1988 as an "Assistant Teacher" only for one academic year.

He has endorsed on the appointment order that the conditions set out therein are acceptable to him and he will join duties on 18/07/1988. As such, on the condition of a temporary appointment for one academic year, the respondent joined duties.

3. Mr.Barde, learned Advocate for the petitioner further submits that since the appointment of the respondent/employee was de-hors the rules, the Education Officer, Dhule listed out the reasons owing to which approval to the appointment of the respondent was refused. Based on the said rejection, the petitioner terminated the services of the employee on 03/12/1988. By an appeal u/s 9 of the MEPS Act, 1977, the respondent/employee challenged his termination and has succeeded by the impugned judgment.

4. Mr.Barde further submits that the learned Division Bench of this Court Admitted this writ petition and granted interim relief in terms of prayer clause "C". Said relief was vacated on 05/03/1992. The employee was reinstated in service. By order dated 08/04/1994, the learned Division Bench directed the State Government to reimburse the petitioner Management in terms of the order of the School Tribunal impugned herein.

5. The employee thereafter retired from employment on attaining the age of superannuation on 31/07/2012.

6. It is pointed out that the employee has preferred a civil application No.13121/2014 praying for a graduate pay scale from the academic year 1994 onwards considering that a junior employee namely Iqbal Ahmed Ansari Mohd.Nazeer was given the graduate pay scale who had subsequently resigned from service.

7. Mr.Barde, therefore, submits that firstly, the appointment of the employee was for only one academic year. Having continued in employment under orders of the Court would not legalize his appointment. His termination was primarily for the reasons listed out by the Education Officer which includes an issue of the failure of the petitioner in following the reservation roaster while appointing the employee and failure to follow the due procedure of selection.

8. Secondly, the Civil application filed by the employee does not deserve to be entertained as this petition is filed under Article 227 for challenging the judgment of the School Tribunal and hence a disputed question as to whether the employee was entitled for a graduate pay scale, cannot be entertained by this Court. He submits

that the contention in the civil application is baseless and the concerned employee Iqbal Ahmed Ansari was senior to the respondent. Nevertheless, if the respondent employee addresses his grievance to the concerned Education Officer having jurisdiction, the petitioner would face the same and would point out that the claim of the respondent/employee is baseless.

9. Mrs.Ansari, learned Advocate for the respondent/employee has strenuously supported the impugned judgment. She also submits that the right of the employee for graduate pay scale from 1994 has not been addressed by any Court and hence this Court may deal with the said issue. However, if this Court is not inclined to entertain the said application, the respondent/employee may raise a grievance/claim, as is set out in the civil application, before the petitioner/Management as well as the concerned Education Officer.

10. I have considered the submissions of the learned Advocates.

11. Considering the fact that this Court vacated the interim relief of staying the impugned judgment on 05/03/1992 and the employee having continued in employment till 31/07/2012 when he superannuated, this petition is rendered of an academic interest.

The salary paid by the petitioner to the employee has also been reimbursed by the State Government under orders of this Court. The petitioner is a grant-in-aid Institution and the salary of the respondent/employee is, therefore, accounted for through the Salary grants.

12. In the light of the above, I am not entertaining this petition on its merits and disposing of the same purely on the ground of subsequent events and the fact that the respondent/employee has retired about 4 years ago.

13. In so far as the civil application of the employee is concerned, disputed questions as regards the purported seniority of the employee, his qualification and pay scale admissible, cannot be gone into by this Court. The civil application is, therefore, disposed of with liberty to the employee to raise the same grievance either before the Management or the competent Education Officer.

14. In the event such a claim is put forth before the petitioner/Management, the concerned Education Officer shall deal with the same on its own merits expeditiously and after considering the contentions/objections of the petitioner/Management.

15. Writ petition is, therefore, disposed off. Rule is discharged.

( RAVINDRA V. GHUGE, J.)