

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.2991 of 1995

Baban S/o Bhimrao Limkar,
aged 32 years, Occu. Service as
Teacher, R/o. Ansurda,
Taluka and District Osmanabad.

...Petitioner

Versus

1. Shri Shamrao Saheb Baba Patil
Vikas Mandal, Ansurda,
Taluka and District Osmanabad,
through its Chairman / President,
Kakasaheb Raosaheb Patil,
aged 35 years, Occu. Agriculture,
R/o Ansurda, Taluka and District
Osmanabad.
(Shri Samarth Raosaheb Baba Patil
Vikas Mandal, Ansurda, Taluka and
District Osmanabad, through its
Chairman / President
Kakasaheb Raosaheb Patil,
aged 35 years, Occu. Agriculture,
R/o Ansurda, Taluka and District
Osmanabad)

2. The Education Officer,
Zilla Parishad, Osmanabad.

3. Laxman s/o Nivrutti Dalve,
aged 32 years, Occu. Service as
Teacher, R/o Ansurda, Taluka and
District Osmanabad.

4. The Presiding Officer,
School Tribunal, Aurangabad Division,
Aurangabad.

...Respondents

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Mr. S.S. Choudhary, Advocate for Petitioner;
Mr.S.B. Talekar, Advocate for Respondent No.1
Mr.R.J.Godbole, Advocate for Respondent No.3 (absent)

CORAM: P.R.BORA, J.

Date of reserving the judgment : 20th June, 2016

Date of pronouncing the judgment : 28th June, 2016

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JUDGMENT :

1) The petitioner has filed the present petition, challenging the Judgment and Order dated 27.04.1994, passed by the School Tribunal at Aurangabad in Appeal No.130/1992. The present petitioner had filed the said appeal, which has been dismissed by the School Tribunal, vide the impugned order.

2) The petitioner had filed the aforesaid appeal against his alleged oral termination by the respondents with effect from 02.07.1992. It was the case of the petitioner before the School Tribunal that, while he was working as Head Master of Shakuntala Deshmukh Prashala, Ansurda, was orally terminated with effect from 02.07.1992. According to the Petitioner, he was appointed to the post of Head Master to the aforesaid School with effect from 11.06.1992 and was satisfactorily rendering his

services. It was also the contention of the petitioner before the School Tribunal that, since the persons in the management of the School were intending to accommodate a person in whom they have vested interest, the services of the petitioner were orally terminated and he was prevented from discharging his duties. It was also the contention of the petitioner that some baseless allegations were also made against him and notices were issued to him seeking his explanation in that regard. It was the contention of the petitioner that, his services were wrongfully terminated without following the prescribed procedure and he had therefore prayed for setting aside the said order of terminating his services orally and for his reinstatement with continuity of service and back wages.

3) The Respondents resisted the contentions raised by the petitioner in the appeal by filing their written statement. It was their contention that, the petitioner was neither a trained teacher, nor a senior

most trained teacher and hence could not have been appointed to the post of Head Master. It was their further contention that, the petitioner was asked to hold an additional charge of the post of Head Master in the leave vacancy of one Laxman Dalve during the period of his leave, but was never appointed to the post of Head Master. It was their further contention that, with effect from 18.11.1991, the petitioner himself remained absent from duties. It was their further contention that, after 18.11.1991, petitioner did not turn up to the school and remained voluntarily absent without any intimation or application. It was their further contention that, just to bring the appeal filed by him before the School Tribunal within the period of limitation that, he alleged that, he was orally terminated with effect from 02.07.1992.

4) From the discussion made by the Tribunal in its Judgment, it reveals that, the petitioner despite obtaining number of adjournments did not place on

record the relevant documents and was not diligent in prosecuting his appeal before the School Tribunal. From the available material on record, the Tribunal has recorded a conclusion that, there was no substance in the allegations made by the Petitioner that, his services were orally terminated with effect from 02.07.1992 and as such dismissed the appeal. The petitioner, therefore, has filed the present petition under article 227 of the Constitution of India.

5) Shri Choudhary, learned Counsel appearing for the petitioner submitted that, the petitioner was duly qualified to be promoted to the post of Head Master and was accordingly promoted to the said post, but he was not allowed to discharge his duties as Head Master or the Assistant Teacher. Learned Counsel further submitted that, the petitioner was all the while diligent in prosecuting his claim and that the observations made in the impugned Judgment are factually incorrect. Learned Counsel relied upon the following judgments:

- 1) Subhash Vidya Mandal & anr. Vs. Mrs. Pusalata Prabhakar Deshmukh, 2014 (4) . L.J. 323.
- 2) Principal, Mahavir Mahavidyalaya, Kolhapur & Anr. Vs. Deepak Ranganath & Ors., 2004 (3) ALL MR 526.

6) The learned Counsel appearing for the respondents supported the impugned judgment and prayed for dismissal of the petition.

7) I have carefully gone through the material on record, more particularly the memo of appeal filed by the Petitioner before the School Tribunal, the say filed by the respondents in appeal before the school Tribunal and documents placed on record by the parties.

8) On perusal of the aforesaid material, it is apparently revealed that, the petitioner did not substantiate the contentions in support of his allegations raised in the memo of appeal. The Petitioner could not prove the fact that, he was working as Head Master of School and that his

services were orally terminated. On the contrary, the documents placed on record by the respondents show that, Shri L.N.Dalve who was respondent No.3 in the appeal before the School Tribunal was working as Head Master at the School at Ansurda, and his appointment was also approved by the Education Officer. The material on record further shows that, the petitioner did not place on record any material to show that he was duly qualified to be promoted to the post of Head Master. The material on record further shows that, notices were issued to the petitioner for his unauthorized absence from the school. There is no proper explanation from the side of the petitioner to the said objection. It is further significant to note that, in the impugned order, the School Tribunal has made an observation that, the petitioner has obtained the job of primary school teacher in another private school in June, 1993. The School Tribunal has also further observed that, "therefore, the appellant does not want to prosecute the appeal". The Tribunal has also observed that, despite directions from the

Tribunal, the appellant did not serve the copy of the appeal memo on respondent No.3. In the aforesaid circumstances, the School Tribunal has dismissed the appeal filed by the Petitioner.

9) In the present Petition, nothing has been brought to my notice so as to differ with the observations made by the School Tribunal in the impugned judgment. The fact recorded by the School Tribunal in the impugned judgment that, the petitioner has obtained the job as primary school teacher in another school from June, 1993 has not been specifically denied or disputed by the petitioner in the petition memo. Only a vague reference is made that the judgment and order passed by the School Tribunal is illegal, wrong and erroneous. Petitioner has also not placed on record any documents showing that he was promoted to the post of Head Master.

10) In absence of any such material placed on record by the petitioner, it is difficult to accept the

contentions raised by the petitioner in exception to the impugned judgment. The Judgments relied upon by the petitioner are not applicable to the facts of the present case. It does not appear to me that any interference is called for in the impugned judgment and order. The Writ Petition is devoid of any substance and deserves to be dismissed and is accordingly dismissed. However, in the circumstances of the case, no order as to the costs. Rule Discharged.

**(P.R.Bora)
Judge**

SPR