

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4039 OF 1997

Sambhaji S/o Rajaram Kale,
Age-29 years, Occu-Service,
R/o Ward No.28,
C/o Datta Bhojanalaya,
Datta Bardi Road,
At Post Tal.Hadgaon,
Dist.Nanded

-- PETITIONER

VERSUS

1. Adarsha Vidyarjan Mandal,
Tq.Hadgaon, Dist.Nanded,
Through its Secretary,
2. Panchasheel Vidyarjan High
School, At Hadgaon,
Tal.Hadgaon, Dist.Nanded,
3. The Education Officer (Secondary),
Zilla Parishad,
Nanded,
4. The State of Maharashtra,
Through Government Pleader,
High Court of Bombay,
Bench at Aurangabad

-- RESPONDENTS

Mr.S.V.Kshirsagar h/f Mr.A.S.Deshpande, Advocate for the petitioner.
Mr.S.N.Kendre, AGP for respondent Nos. 3 and 4.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 23/12/2016

PER COURT :

1. The petitioner has challenged the judgment of the School

Tribunal dated 28/10/1994 by the present writ petition filed on 24/12/1996. The grievance of the petitioner is restricted to challenging the denial of back wages. It is submitted that WP No.2527/1995 filed by the respondent/Management for challenging the judgment of the School Tribunal granting reinstatement with continuity of service to the petitioner, was dismissed by order dated 10/06/1996.

2. Mr.Kshirsagar, learned Advocate for the petitioner has strenuously criticized the denial of back wages by the School Tribunal. He submits that the illegal act of the Management cannot be overlooked and once the termination is set aside, back wages should be granted as a natural course.

3. I find that the petitioner had preferred his appeal belatedly. Delay of 8 months was condoned by the Tribunal. His termination is dated 23/01/1993 and the date of the judgment of the Tribunal is 28/10/1994. Naturally, the petitioner cannot derive the benefits/ advantage of the delay period and he cannot claim monetary benefits for the same. So also, the condonation of delay application was allowed after a few months which would disentitle him from claiming wages for the said period.

4. Considering the above and for the abovesaid period which is on account of the delay and its condonation, petitioner is rightly deprived of the monetary benefits lest it would amount to gaining advantage on account of the delay.

5. So also, the learned Division Bench of this Court has sustained the judgment of the Tribunal by its order dated 10/06/1996 by which the petition filed by the Management was dismissed. Despite having appeared in the matter, the petitioner did not challenge the said judgment of the Tribunal to the extent of denial of back wages and after 6 months of the order of the learned Division Bench, he has filed this petition.

6. Considering the peculiar facts as above, I do not find that the petitioner deserves to be granted back wages. This petition being devoid of merit, is therefore dismissed. Rule is discharged.

(RAVINDRA V. GHUGE, J.)