

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1156 OF 1997

Principal/Secretary,
Nutan Mahavidyalaya, Sailu

AND

Mahavidyalaya Committee,
Nutan Mahavidyalaya, Sailu,
Tq.Pathri, Dist.Parbhani

-- PETITIONER

VERSUS

1. Dayanand Bhujangrao Salve,
Age-32 years, Occu-Nil,
R/o Gayatri Nagar,
At & Post : Sailu,
Dist.Parbhani,

2. Presiding Officer, (Deleted)
School Tribunal,
Aurangabad

-- RESPONDENTS

Mr.V.P.Golewar h/f Mr.A.R.Joshi, Advocate for the petitioner.
Mr.V.L.Dhoble, Advocate for respondent No.1 (Absent).
Respondent No.2 is deleted.

(CORAM : RAVINDRA V. GHUGE, J.)
DATE : 24/11/2016

ORAL JUDGMENT :

1. This matter was adjourned on 17/11/2016 as none appeared for respondent No.1. Even today, none appears. Matter is of 1997 and hence I have proceeded to decide this matter on its merits.

2. The petitioner is aggrieved by the judgment dated 05/03/1997 delivered by the School Tribunal, by which Appeal No.110/1990 filed by the respondent herein has been allowed and he has been granted reinstatement with continuity and full back wages.

3. This Court, while admitting the matter on 11/01/2001, has stayed the judgment.

4. It clearly appears from the record that the petitioner has appointed the respondent by appointment order dated 16/07/1990 purely on temporary basis. His duration of temporary employment was mentioned as 16/07/1990 upto 31/03/1991. There was no selection process followed and the respondent was temporarily appointed.

5. The record reveals that the respondent executed an undertaking on 16/07/1990 that he is accepting the appointment order with all conditions mentioned therein.

6. The record also reveals that in between 16/07/1990 upto 05/09/1990, the respondent was resorting to leave on a few occasions. One incident of 05/09/1990 indicates that the practical

examinations of the students were arranged and the respondent sent a leave application to the said Chemistry Department through a student. This had affected the conducting of the practicals. He was therefore issued with a notice dated 05/09/1990 as to why he should not be punished. After considering his reply, a fine of Rs.25/- was imposed upon him. On 15/09/1990, the petitioner issued a notice of one month to the respondent informing him that he is not found satisfactory for the organization. He was accordingly relieved w.e.f. 15/10/1990.

7. I have gone through the impugned judgment of the School Tribunal with the assistance of the learned Advocate for the petitioner. The Tribunal has concluded that as the respondent had worked for about 3 months, it is deemed that he was a regular employee of the petitioner under the rules. The Tribunal further concluded that the termination of the respondent is stigmatic and without any disciplinary proceedings having been initiated. I cannot concur with such conclusions of the Tribunal. The respondent was appointed purely on temporary basis from 16/07/1990 till 31/03/1991. Considering the manner in which he was working, the petitioner gave him an opportunity to explain his behaviour. Since he was not working seriously, the petitioner issued an innocuous order

which was accompanied with a notice of termination stating therein that he was not found satisfactory for the Institution.

8. In the light of the above, I do not find that the disengagement of the respondent after 3 months of temporary engagement could be termed as being a stigmatic termination. The impugned judgment is perverse, erroneous and clearly indicates non application of mind.

9. In the light of the above, this petition is allowed in terms of prayer clause E, which reads as under :-

“e. Rule may kindly be made absolute and impugned judgment and order dated 05/03/1997, Exh.'U', to this writ petition in Appeal No.110/1990 passed by learned Presiding Officer, School Aurangabad, may kindly be quashed and set aside.”

10. The impugned judgment, therefore, is quashed and set aside and Appeal No.110/1990 stands dismissed.

11. Rule is made absolute in the above terms.

(RAVINDRA V. GHUGE, J.)