

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2178 OF 1996

1. The Secretary,
Mahatma Phule Shikshan
Prasarak Mandal,
C/o Swami Vivekananda
High School, Shivaji Nagar,
Nandurbar, Dist. Dhule.

2. The Head Master,
Swami Vivekananda
High School, Shivaji Nagar,
Nandurbar, Dist. Dhule.

..Petitioners

Versus

1. Tamboli Bhaskar Hari,
At and post Ranale,
Taluka Nandurbar,
District Dhule.

2. The Presiding Officer,
School Tribunal,
Nasik Region, Nasik.

..Respondents

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Advocate for Petitioners : Shri S.T.Shelke
Advocate for Respondent 1 : Shri S.P.Shah

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CORAM : RAVINDRA V. GHUGE, J.
Dated : September 22, 2016

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ORAL JUDGMENT :-

1. The petitioner / management is aggrieved by the judgment of the School Tribunal dated 24.8.1994, by which Appeal No.11 of 1992, filed by the respondent under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act,

1977 ("the MEPS Act" for short), was allowed and the petitioner was directed to reinstate the respondent on his original post with all benefits w.e.f.30.4.1990 till he is reinstated.

2. The learned Division Bench of this Court, by its order dated 27.3.1995, admitted the petition and refused interim relief. The respondent was 40 years old in 1992, and would be 64 years old today.

3. Shri Shelke, learned Advocate for the petitioner has strenuously criticized the impugned judgment. He submits that though the respondent may have worked from 1983 till 30.4.1990, he was an untrained teacher. He was appointed for one academic year at a time. The petitioner School was not receiving grants. Trained teachers were not available despite advertisements being published by the petitioners. Hence, the respondent was appointed on year to year basis since he was an untrained teacher.

4. Though the respondent acquired B.Ed. qualification from Jabalpur, since there was no approval to his appointment, he was terminated by order dated 30.4.1990, considering the law as it stood then.

5. He further submits that the impugned judgment dated

24.8.1994 is an ex-parte judgment. The petitioner did not get an opportunity of hearing. He, therefore, prays that the impugned judgment be quashed and set aside.

6. Shri Shah, learned Advocate for the respondent / employee has supported the impugned judgment by contending that since the respondent was working on year to year basis for seven years and since he had acquired the B.Ed. qualification subsequent to his appointment, he was rightly confirmed in employment in the light of Section 5(2).

7. He further submits that the learned Division Bench of this Court had considered the submissions of the petitioner and had refused interim relief. He, therefore, prays for the dismissal of this petition.

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

9. There is no dispute that the respondent had worked for seven years. There is also no dispute that at the relevant time a trained teacher was not available. The respondent had acquired the B.Ed. qualification subsequently.

10. The case of the petitioner was considered by the learned

Division Bench of this Court. Interim relief was specifically refused.

11. Considering the fact that the respondent having worked for seven years and having acquired the B.Ed. qualification, I do not find any reason to entertain this petition and more so, considering the fact that the respondent has attained the age of superannuation four years ago.

12. This petition is, therefore, dismissed. Rule is discharged.

(RAVINDRA V. GHUGE, J.)

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akl/d