

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8477 OF 2016

Bajirao Baburao Jogdand,
Age 60 years, Occ. Retired,
R/o Jawalaban, Taluka Kaij,
District Beed.

Versus

1. The State of Maharashtra
Through the Secretary,
Education Department (S),
Mantralaya, Mumbai.
2. The Dy. Director (Education),
Aurangabad Division,
Aurangabad.
3. The Education Officer (S),
Zilla Parishad, Beed.
4. The President,
Punarvasan Dhanegaon
Magasvargiya Shikshan
Prasarak Mandal, Dhanegaon,
Tq. Kaij, Dist. Beed.
5. The Secretary,
Punarvasan Dhanegaon
Magasvargiya Shikshan
Prasarak Mandal, Dhanegaon,
Tq. Kaij, Dist. Beed.
6. The Head Master,
Dnyaneshwari Madhyamik
Vidhyalaya, Dhanegaon,
Tq. Kaij, Dist. Beed.

..Respondents

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Advocate for Petitioner : Shri Chawre Anand
AGP for Respondents 1 to 3 : Shri Sonpawale S.P.
Advocate for Respondents 4 to 6 : Shri Sakolkar V.G.

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CORAM : RAVINDRA V. GHUGE, J.

Dated: December 06, 2016

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ORAL JUDGMENT:-

1. Heard learned Advocates for the respective parties.
2. Rule.
3. By consent, Rule is made returnable forthwith and the petition is taken up for final disposal.
4. The petitioner is aggrieved by the order dated 1.10.2016, by which, the representation of the petitioner seeking benefits as have been set out in the prayers in Writ Petition No. 2358 of 1998, have been rejected.
5. The petitioner points out that his representation has been rejected only for the reason that the original copy of the appointment order indicating that he was in service from 14.6.1993 (till his superannuation on 31.5.2013) has not been placed on record by respondents 4 to 6 / management.
6. The petitioner was before the School Tribunal in Appeal No.51 of 1998 for challenging his illegal termination. By judgment dated

16.3.2001, his appeal was allowed and by setting aside his termination order dated 24.2.1998, he was granted reinstatement with effect from 25.2.1998. The management preferred Writ Petition No.1010 of 2002 for challenging the judgment of the School Tribunal and this Court, by order dated 26.3.2002, has dismissed the Writ Petition. The date of appointment of the petitioner from 14.6.1993 has been accepted by the Tribunal as well as by this Court.

7. The petitioner had prayed for service benefits in Writ Petition No.2358 of 1998. By order dated 21.8.2014, delivered by the learned Division Bench of this Court, Writ Petition No. 2358 of 1998 was disposed off only on the ground that the petitioner has a remedy under Section 4 and 4-A of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (“the MEPS Act” for short). It was pursuant to this order, that the petitioner, who has now retired, approached respondent No.2 for reliefs. Merely because the original copy of the appointment order is not on record and despite the Education Officer having specifically rendered assistance by indicating that the petitioner has been working from 14.6.1993 till his retirement, respondent No.2 has concluded that the petitioner is not entitled for service benefits.

8. The learned AGP has strenuously supported the impugned order. Learned Advocate for the respondents 4 to 6 also supports the

learned AGP. Contention is that the petitioner has worked as a Police Patil during a particular period from about 1994 till 2006-07. However, it cannot be ignored that the School Tribunal has granted reinstatement from 25.2.1998 with backwages and all consequential benefits to the petitioner. This order has been sustained by order dated 26.3.2002 passed by this Court when the Writ Petition No.1010 of 2002, filed by the respondent / management was dismissed. In my view, the respondents cannot go behind the judgment of the School Tribunal and the order of this Court, especially when these orders have not been challenged before the Honourable Supreme Court for the past 14 years.

9. A retired employee has been compelled to approach this Court only because some documents were not produced by the management, despite the fact that the petitioner has himself produced about 18 documents by list of documents dated 26.2.2015 before respondent No.2 / authority. Once the petitioner is granted reinstatement with all consequential benefits and that order has been sustained by this Court, neither of the parties can be permitted to go behind the said order and reopen the issue.

10. In the light of the above, this petition is partly allowed. The order of respondent No.2 dated 1.10.2015 is quashed and set aside and the proceedings initiated by the petitioners are remitted back to

respondent No.2 on the following conditions:-

(A) All the litigating sides shall appear before respondent No.2 on 20.12.2016 at 11.00 AM.

(B) Formal notices need not be issued to the litigating sides.

(C) The respondent - Education Society shall deposit costs of Rs.5,000/- before respondent No.2 on the date of appearance and the said costs shall be withdrawn by the petitioner without conditions.

(D) Though I was inclined to impose costs on respondent No.2 for having casually rejected the application of the petitioner, who is battling for his retiral benefits, I am not imposing costs since the learned AGP submits that the said authority shall carefully consider the proceedings and by keeping the rights of the petitioner in focus, shall decide the said claims by passing a reasoned order.

(E) Respondent No.2 shall give reasonable opportunity of hearing to all the sides, shall consider the documents produced by the petitioner as well as the orders passed by the Tribunal and this Court and shall decide his claims as expeditiously as possible and preferably on/or before 31.3.2017.

(F) The respondent / management is directed to extend cooperation in the hearing before respondent No.2 and file such documents as may be required for the proper

adjudication of the claim of the petitioner.

11. Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)

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