

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9282 OF 2016

1. Rajdharma Shikshan Prasarak Mandal,
Ambad, through its Secretary,
Taluka Ambad, District Jalna
Sau. Taramatitai Sahebrao Kharat,
Age 50 years, Occ. Service.

2. Savitribai Phule Secondary School,
Parner, Tq. Ambad, Dist. Jalna
through its Headmaster Abhimanu
Baburao Gadhave, Age 42 years,
Occupation Service.

..Petitioners

Versus

1. Uddhav Bhimrao Jadhav,
Age 45 years, occ. Nil
r/o Parner, Taluka Ambad,
District Jalna.

2. The Education Officer (S),
Zilla Parishad, Jalna.

..Respondents

...

Advocate for Petitioners : Shri Barlinge S.R.
Advocate for Respondent 1 : Shri Patil M.M.
AGP for Respondent 2 : Shri Kutti P.N.

...

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

...

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 2.3.2016, delivered by the School Tribunal in Misc. Application No. 16 of 2015.

5. Shri Barlinge, learned Advocate for the petitioner has strenuously criticized the impugned order. He points out from the application filed by respondent No.1 before the Tribunal seeking condonation of delay that the appellant has consistently treated 1.1.2010 as being the date of his oral termination. Though he has produced some record before the Tribunal to indicate that he was working upto 24.6.2015, he has not taken a stand that his oral termination is w.e.f. 25.6.2015.

6. While seeking condonation of delay of 2000 days, w.e.f. 1.1.2010, the shifting stand taken by the appellant is appreciated by the Tribunal and the application for condonation of delay is allowed on an unusual conclusion that the oral

termination is w.e.f. 25.6.2015 and hence, there is no delay. Shri Barlinge voices a serious grievance that the Tribunal could not have set the date of termination for the appellant as it was the appellant himself who has to indicate the date of termination. The Tribunal has virtually stepped into the shoes of the appellant.

7. Shri Patil, learned Advocate appearing on behalf of respondent No.1 appellant submits that the record pertaining to his discharging of duties from 2010 till 24.6.2015 was placed on record and hence, the Tribunal has concluded that his oral termination is w.e.f. 25.6.2015. He, however, concedes that in the appeal as well as in the application for condonation of delay, he has mentioned the date 1.1.2010 as being the date of oral termination.

8. Shri Patil submits on instructions, that the respondent shall proceed with his appeal by treating 25.6.2015 as the date of oral termination and would not claim oral termination from 1.1.2010. He further submits that he would carry out the necessary amendment in the appeal memo and the prayer clauses to indicate that the oral termination is w.e.f. 25.6.2015.

9. In the light of the above, this petition is disposed off by recording the statement made by respondent No.1 appellant that he would proceed with the appeal on the basis of his alleged oral termination w.e.f. 25.6.2015 and shall carry out an amendment to that effect in his memo of the appeal and its prayer clauses.

10. With the above observations, Rule is discharged.

(RAVINDRA V. GHUGE, J.)

...

akl/d