

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

REVIEW APPLICATION (CIVIL) NO.7 OF 2016
IN
WRIT PETITION NO. 9397/2014
...

MEENA ARUNRAO AMBHURE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...

Advocate for Applicant : Mr. Salunke V.D.

Mr. AG Magre, AGP for Respondent No.1;

Mr. AD Aghav Adv. For R.2 & 3

**CORAM : S.S.SHINDE &
P.R.BORA, JJ.**

DATE : 25th January, 2016.

PER COURT :

1) Heard. Learned Counsel appearing for the review petitioner submits that, there is an apparent error on the face of record inasmuch as there is observation made in the order under review that, the petitioner was junior vis-a-vis Respondent No.4. However, the petitioner was declared surplus in the year 2011, whereas Respondent No.4 was declared surplus in 2014. Therefore, since the petitioner was declared surplus at earlier point of time than Respondent no.4, the observation made in the order

under review is an error apparent on the face of record.

2) The learned Counsel, in support of the aforesaid submissions, invited our attention to seniority list of the surplus teachers, prepared by the authorities concerned and submits that, the petitioner has been placed at Serial No.12 in the said seniority list of surplus teachers. He further submits that, the petitioner was initially absorbed in Panchayat Samiti, Ambejogai and thereafter he was posted in Zilla Parishad Secondary School at Dighol Amba and, therefore, in view of the fact that the petitioner was declared surplus in the year 2011, even before Respondent No.4, the authorities ought not to have continued the petitioner on the said post and the order challenged in the writ petition, ought not to have passed by the respondents/authorities. Therefore, relying upon the grounds taken in the review petition, annexures thereto, the learned Counsel appearing for the review petitioner submits that, the review petition deserves consideration.

3) We have heard the learned Counsel appearing for the review petitioner. We have also carefully

perused the grounds taken in the review petition, annexures therein and in particular, letter dated 4.8.2011, addressed to the petitioner by the Block Development Officer, Panchayat Samiti, Ambejogai. The contents of the said communication abundantly make it clear that the petitioner was posted in Zilla Parishad Secondary School at Dighol Amba on temporary basis, in a vacant post until further orders. As per the relevant rules, while declaring surplus teachers, the authorities have to first declare surplus teacher, who is junior-most teacher appointed and likewise have to declare surplus in case there is no workload available or for that matter under any other eventuality including de-recognition of the school etc. In the said background, we have made observations in the order under review that, the petitioner's appointment was admittedly in the year 2011, whereas Respondent No.4 was appointed on 20th September, 2005. the said observations, were not in relation to seniority in declaring either the petitioner or Respondent No.4 as surplus teacher. Apart from it, as already observed, the petitioner was appointed in Zilla parishad Secondary School at Dighol Amba on temporary basis until further orders.

In that view of the matter, we are of the considered view that there is no error apparent on the face of record, hence the review petition stands rejected.

(P.R.BORA)
JUDGE

(S.S.SHINDE)
JUDGE

bdv/