

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4892 OF 2003

Shri Pandurang Bhau Mhaske	...	...Petitioner
v/s.		
State of Maharashtra & ors.		...Respondents

...

Mr.V.A.Bodhare i/b Mr.A.M.Joshi for the Petitioner.
 Mr.Sushil A.Inamdar i/b Mr.S.V.Pitre for the Respondents Nos.3 & 4.
 Mr.J.A.Madane, AGP for the State.

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CORAM : A.A. SAYED, J.

DATED : 25 NOVEMBER 2016

P.C.:

By this Petition filed under Article 226 and 227 of the Constitution, the Petitioner has impugned the order dated 29 January 2003 passed by the Presiding Officer, School Tribunal, Pune Region, Pune, whereby his Appeal challenging the action of the Respondent-Management in not allowing him to work as a full time teacher was dismissed.

2. The case of the Petitioner was that he was initially appointed as a part time teacher in Respondent-College in June, 1994 in the subject of Geography. Considering the workload in the subject of Geography and History, an order was issued by the Respondent-College appointing the Petitioner as a full time teacher with effect from 12 June 2000. The Petitioner, accordingly, served as a full time teacher from 12 June 2000 till 13 January 2001.

3. The case of the Respondent-College is that the Petitioner was appointed as a full time teacher on a post which was reserved for backward class category and therefore the same was purely temporary.

4. It is an admitted position that the Petitioner belongs to open category. It is also an admitted position that the Petitioner himself has executed an undertaking to the effect that his appointment as a full time teacher is against the post reserved for backward class category and after completion of the period for which he was appointed, he was liable to be relieved and that he will not make a claim on the said post. The Petitioner was thereafter continued on the part time post after 13 September 2001. In these circumstances, it was not open for the Petitioner to turn back and make a claim on the post which was reserved for backward class category, merely because he was asked to temporarily serve as a full time teacher and in view of his clear undertaking referred to above.

5. Even otherwise, I have my doubts how the Appeal would be maintainable under section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (MEPS Act), as it cannot be said that the Petitioner was reduced in rank as contemplated in section 9, when the Petitioner was as a matter of fact relegated as a part time teacher as originally appointed.

6. In these circumstances, there is no merit in the Petition. The Petition shall, accordingly, stand dismissed. Rule is discharged. No costs.

(A.A. SAYED, J.)