

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 9199 OF 2016

Shri. Subhash Bhagwan Khedkar

... Petitioner

vs.

Ware Education Trust & ors.

... Respondents

Mr. Sabnis Gangadhar J. i/by R. J. Dhond, Advocate for the petitioner.

None for the respondents.

Coram : Smt. R. P. SondurBaldota, J.

Date : 4th October, 2016

P.C. :

1. This petition is directed against the order dated 25th April, 2016, by which the School Tribunal dismissed the petitioner's appeal to challenge his alleged oral termination from service. There was substantial delay on the part of the petitioner in approaching the Tribunal which had been condoned and the appeal heard on merit.

2. In it's written statement, the respondent Management had contended that the petitioner had in fact resigned from service on 2nd April, 2007, which resignation was accepted on the very day by the Management and he was relieved from service on that day. The letter of acceptance was issued to the petitioner on 2nd July, 2007. It bears endorsement of receipt from him. During the course of the arguments on the appeal, the petitioner sought to contend across the bar that he

had not sent any letter of resignation and letter of resignation relied upon is a forged and fabricated document. The Tribunal noted that the petitioner has not amended the appeal to bring this defence on record. Therefore the same could not be considered. This observation of the Tribunal is completely justified. The petitioner could not have taken up any contention of fact much less such a contentious one across the bar. In any case, since the contention was taken up for the first time across the bar there obviously was no evidence to support the contention.

3. It was the allegation of the petitioner that his services were orally terminated in order to accommodate the daughter and daughter-in-law of one Tulshiram Ware, the founder member of the trust. In the written statement the management had specifically stated that Mr. Tulshiram Ware is not the founder member of the trust. The petitioner failed to establish that Mr. Tulshiram Ware is the founder member of the trust.

4. In the above facts of the case, there is no infirmity whatsoever in the impugned order. Hence, the petition is dismissed.

[Smt. R. P. SondurBaldota, J.]