

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.6736 OF 2016

[Arun Wasudeorao Kapure and one .vs. The Education Officer (Secondary), Zilla Parishad, Nagpur
and others]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri P.N. Shende, counsel for the petitioners,
Ms. Tajwar Khan, AGP for respondent no.1.

CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATED : DECEMBER 01, 2016.

By this writ petition, the petitioners challenge the orders of the Education Officer (Secondary), Zilla Parishad, Nagpur declaring the petitioners as surplus and directing their absorption in the other schools.

According to the petitioners, though the petitioners are seniors, the respondent-Education Officer has declared the petitioners as surplus by retaining their juniors in the same school.

Ms. T. Khan, the learned Assistant Government Pleader appearing on behalf of the respondent-Education Officer states, on the basis of instructions from the Deputy Education Officer, who is present in the Court today, that the claim made by the petitioners is false and baseless. It is stated that the petitioner no.1 was working as a Physical Training Instructor in the respondent no.2-school and as per the staffing pattern, three posts of Physical Training Instructors have been reduced to one. It is stated that the petitioner no.1 was placed at Sr.No.4 in the seniority list, whereas the other two Physical Training Instructors were placed at Sr.Nos.12 and 23. It is stated that the Physical Training Instructor, Shri R.D. Kunwar was appointed on a post

meant for the Scheduled Tribes and the petitioner no.1 and the Physical Training Instructor at Sr.No.12 were appointed in the open category. It is stated that though the petitioner no.1 is senior to the other two Physical Training Instructors, the petitioner no.1 and the other Physical Training Instructor, who is placed at Sr.No.12 in the seniority list were liable to be declared as surplus to maintain the reservation and hence Shri R.D. Kunwar at sr.no.23 is retained in the respondent-school, as he is appointed on a post reserved for the Scheduled Tribes and the petitioner no.1 and the Physical Training Instructor at Sr.No.12 in the seniority list are declared surplus.

It is stated that the petitioner no.2 was appointed as an Assistant Teacher for teaching the special subject of Mathematics and though the petitioner no.2 is placed at Sr.No.19 in the seniority list, the petitioner no.2 was appointed in open category. It is stated that some other teachers teaching special subjects are placed at Sr.Nos.8,14 and 18 in the seniority list and they are senior to the petitioner no.2 and hence they are entitled to be retained. It is stated that since two posts meant for special teachers, teaching the subjects of Mathematics, Science and English are declared surplus, the petitioner no.2, placed at Sr.No.19 in the seniority list is declared as surplus as the special teachers at Sr.Nos.8,14 and 18 are senior to the petitioner no.2 and the special teacher at Sr.No.27, who is junior to the petitioner no.2, is appointed on a post meant for the Scheduled Castes. It is stated that the special teacher at Sr.No.27 could not have been declared as surplus as he is appointed on a post meant for the reserved category. It is stated that since the petitioner no.2 is appointed in the open category, the petitioner no.2, who is placed at Sr.No.19 and the special teacher at Sr.No.25 in the seniority list, who is appointed in the open category are declared as surplus.

It appears from the statements made on behalf of the Education Officer that there is no illegality in declaring the petitioner nos.1 and 2 as surplus and absorbing them in the schools mentioned in the impugned order. We find that the petitioners have been declared surplus though they are senior to some other teachers with a view to maintain the percentage of reservation.

Since we do not find any illegality in the impugned order, the writ petition is dismissed with no order as to costs.

JUDGE

JUDGE