

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2342 OF 1996

Vithal Zipam Patil,
Indian Inhabitant, Adult,
Aged about 46 years,
R/o Dhule, Vice President of
Public Education Society,
Professor Colony Road, Deopur,
Dhule, Tal. And Dist. Dhule

– PETITIONER

VERSUS

Smt.Vasudha Laxman Hole,
Indian Inhabitant, Adult,
Aged about ____ years,
Residing at Lane No.5,
House No.1566/1,
In front of “Navasacha Maruti”,
Dhule, Tal. And Dist. Dhule

– RESPONDENT

Mr.B.R.Warma, Advocate for the petitioner.
Mr.Bolkar h/f Mr.R.B.Raghuwanshi, Advocate for the respondent.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 03/08/2017

ORAL JUDGMENT :

1. The petitioner Education Society is aggrieved by the judgment and order dated 18/10/1994 by which Dhule Appeal No.9/1994 preferred by the sole respondent appellant was allowed and she was directed to be reinstated on her original post of Head Mistress with all benefits from the date of the removal.

2. I have considered the submissions of the learned Advocates for the respective sides.

3. The respondent/appellant was appointed as a Head Mistress on 06/06/1990. On 24/06/1993, it is contended by the Management that she tendered her resignation voluntarily. As the Management found a suitable candidate for the post of Head Mistress, a resolution was passed accepting the resignation of the appellant on 20/03/1994. She was therefore directed to handover the charge to the newly appointed candidate. However, the record reveals that the appellant withdrew her resignation on the same date 24/06/1993.

4. The Tribunal has recorded that the appellant had stated in her withdrawal letter that she had lost her mental balance and had erroneously tendered a resignation on 24/06/1993 which she was withdrawing on the same day. The Trial Court concluded that when the withdrawal of the resignation is immediate and when the Management had made a remark under the signature of the President on 28/06/1993 "continued on duties", it cannot be concluded that the resignation was accepted subsequently by the Management.

5. It is the case of the appellant that she was continued in employment by the Management thereafter. The School Tribunal recorded that the letter of the Management dated 04/04/1994 would indicate that they had directed the appellant to handover her charge when she had already withdrawn her resignation on 24/06/1993 and had continued to work till 23/03/1994. Such acceptance of resignation after almost 9 months and by keeping the appellant in employment pre-supposes that the resignation stood withdrawn and could not have been accepted. Moreover, she had promptly withdrawn it on the same day.

6. Considering the above, I do not find that the impugned judgment of the Tribunal could be termed as being perverse or erroneous. This petition, being devoid of merit, is therefore dismissed. Rule is discharged.

(Ravindra V.Ghuge, J.)