

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

WRIT PETITION NO. 991 OF 2016

Ashwinikumar Madhukar Sonwane,
Age 31 years, Occu. Service,
R/o C/o Dayanand Vidyalaya,
Kawatha, Taluka Omerga,
District Osmanabad

..Petitioner

Versus

1. The State of Maharashtra,
through its Secretary,
School Education & Sport
Department, Mantralaya,
Mumbai
2. The Education Officer (Secondary),
Zilla Parishad, Osmanabad
3. Dayanand Vidyalaya, Kawatha,
Taluka Omerga,
District Osmanabad, through
its Head Master

..Respondents

Mr S.S. Jadhavar, Advocate for petitioner
Mrs P.V. Diggikar, A.G.P. for respondents no.1 and 2
Respondent no.3 served

**CORAM : R.M. BORDE AND
A.M. DHAVAL, JJ**

DATE : 18th July 2017

ORAL JUDGMENT (Per R.M. Borde, J.)

1. Rule. Rule returnable forthwith. With the consent of parties, the petition is taken up for final disposal at the stage of admission.
2. The petitioner is seeking quashment of the decision dated 26th November 2015 recorded by respondent no.2 whereby the proposal for approving the appointment of the petitioner on the post of Junior Clerk with respondent no.3 - school has been turned down.

3. The petitioner contends that he was inducted in employment as a Junior Clerk on 13th July 2012. The proposal tendered by the management seeking approval to the appointment was turned down on 30th August 2013 by the Education Officer (Secondary), Zilla Parishad, Osmanabad, for the reason that the appointment has not been made in consonance with the government policy declared on 6th February 2012. The petitioner submits that he continued in employment, however, the management directed termination of his services by oral orders after refusal of approval by the Education Officer on 2nd September 2014. The petitioner, as such, approached the School Tribunal by presenting appeal bearing No.75 of 2014. The appeal tendered by the petitioner came to be allowed by the Presiding Officer, School Tribunal, Pune Region, Solapur in view of the decision dated 29nd September 2015. The respondents were directed to reinstate the petitioner in employment with benefits of continuity of service from the date of his termination. He was also held entitled to claim full back wages. In pursuance to said decision, the petitioner was permitted to resume the duties. The proposal tendered by the management to the Education Officer (Secondary), Zilla Parishad, Osmanabad seeking approval to the appointment has been turned down by the Education Officer, in view of the order dated 26th November 2015. Reason recorded by the Education Officer is policy declared by the State Government on 6th February 2012 thereby deciding not to appoint employees until finalisation of new staffing pattern.

4. The petitioner contends that the decision taken by the State Government is inapplicable to the case of the petitioner since he has been appointed in the school by virtue of order dated 13th July 2012. The decision taken by the State Government in the year 2015 will have no retrospective application since 2012. The submission made on behalf of the petitioner deserves to be considered. The reason recorded by the Education Officer for turning down the proposal is not convincing.

5. As such, the decision taken by the Education Officer dated 26th November 2015 of refusing to accord approval to the appointment of petitioner is quashed and set aside. The Education Officer (Secondary), Zilla Parishad, Osmanabad shall reconsider the proposal in accordance with the relevant policy prevailing on the date of appointment of the petitioner and shall communicate the decision to the petitioner as well as to the management, as expeditiously as possible, preferably within a period of four months from today and is directed accordingly.

6. Rule is made absolute to the extent specified above. There shall be no order as to costs.

(A.M. DHAVAL, J.)

(R.M. BORDE, J.)