

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4153 OF 2006

Ahilyadevi Mahila Mandal
(Through its President)
Smt.Tarabai Sahebrao Khatke)
Adgaon Bk, Taluka and Dist. Aurangabad -- PETITIONER

VERSUS

1. Ramesh s/o Mohan Rathod,
Age-Major, Occu-Service,
R/o Gajanan Colony,
Aurangabad
2. The Appellate Authority
and Divisional Social Welfare Officer,
Aurangabad -- RESPONDENTS

WITH
WRIT PETITION NO.4922 OF 2006

Ramesh Mohan Rathod,
Age-37 years, Occu-Nil,
R/o Gajanan Colony,
Aurangabad -- PETITIONER

VERSUS

1. The State of Maharashtra
Through its Social Welfare Department,
Mantralaya, Mumbai-32,
2. The Divisional Social Welfare Officer,
Aurangabad Division, Aurangabad,
3. The Spl.District Social Welfare Officer,
Aurangabad,

4. The Head Master,
Malharrao Holkar Primary Ashram
School, Adgaon (Bk.),
Tq. and Dist. Aurangabad,

5. The President,
Ahilyadevi Mahila Mandal,
Adgaon Bk. Tq. and Dist.
Aurangabad

-- RESPONDENTS

Mrs.A.S.Rasal, Advocate for the petitioner/Management.
Mr.N.B.Narwade, Advocate for respondent No.1/employee.
Mr.B.A.Shinde, AGP for respondent No.2.

(CORAM : RAVINDRA V. GHUGE AND
SUNIL K. KOTWAL, JJ.)

DATE : 27/11/2017

ORAL JUDGMENT : (Per Ravindra V. Ghuge, J.)

1. By the first petition filed by the Management, prayer clause 13-A and 13-B are put forth, which read as under :-

"13-A - To quash the impugned order dated 28.3.2006 in Appeal No.7 of 2004 passed by the respondent No.2.

13-B - Pending hearing and final disposal of this writ petition, the operation, enforcement and implementation of the impugned order dated 28.3.2006 in Appeal No.7 of 2004 passed by the respondent No.2 be stayed and suspended."

2. In the second petition filed by the original employee, prayer clause 21-B and 21-C put forth by him, read as under :-

"21-B - By issuing the writ of mandamus or any other

appropriate writ, the respondent No.4 and 5 may kindly be directed to allow the petitioner to join the services on the post of Kamathi at Mallharrao Holkar Primary Ashram School Adgaon Bk. Tq. and Dist. Aurangabad.

21-C - The respondent - authority may kindly be directed to deposit the amount of salary and all the back wages of amount of Rs.1,24,563/- in this Hon'ble High Court within a stipulated period since April 2004 till May, 2006."

3. We have considered the strenuous submissions of the learned Advocate for the petitioner / Management and the learned Advocate for the original petitioner.

4. While admitting the 1st petition on 17/07/2007, after hearing the learned Advocates for all the sides, this Court had refused interim relief to the Management.

5. We have perused the said order, which is a reasoned order. This order assumes significance in view of the fact that pursuant to the refusal of interim relief to the Management, the impugned judgment of the Tribunal has been complied with. It is undisputed that the original petitioner has been reinstated in service, has been granted continuity and has also been paid a substantial portion of

his back wages.

6. An amount towards back wages has been deposited in this Court and the original petitioner has moved an application for seeking withdrawal of the said amount. We find that the petitioner/employee had preferred C.P.No.191/2007. In the said petition, the back wages were deposited in this Court and the petitioner was permitted to withdraw a portion of the said back wages.

7. While perusing the earlier order passed by this court on 17/07/2007, in the backdrop of the subsequent events that have occurred in the last about 10 years, we find that the petition filed by the Management was admitted only to the extent of considering whether Rule 28(5) of the M.E.P.S. Rules, 1981 would have any effect on the service of the petitioner and whether that would be a ground for considering the contention of the Management that the impugned order of the Tribunal is perverse.

8. We find that the petitioner/employee has now settled in employment over a decade. It would be harsh to unsettle his employment when he has worked for a decade ever since the filing of

these 2 petitions.

9. Keeping this fact situation in view, we find that these 2 petitions are left with an academic interest. As such, the first writ petition filed by the Management stands disposed of. Rule is discharged. Consequentially, the second petition filed by the employee also is disposed off and rule is discharged.

10. In so far as the amount of back wages deposited in this Court are concerned, the original petitioner/employee namely Ramesh Mohan Rathod would be at liberty to withdraw the said amount with accrued interest.

11. Pending civil applications, do not survive and stand disposed off.

(SUNIL K. KOTWAL, J.)

(RAVINDRA V. GHUGE, J.)