

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

WRIT PETITION NO.:7984 OF 2016

Rajendra Pundlik Kurhe.

VERSUS

The Secretary, Sanjivani Rural Education Society And Others

WITH

WRIT PETITION NO.:7985 OF 2016

Vikram Rangnath Dhokrat.

VERSUS

The Secretary, Sanjivani Rural Education Society And Others

...

Advocate for Petitioners : Shri Patil Vinod Prakash.

Advocate for Respondents 1 and 2 : Shri V.D.Hon, Senior Advocate a/w
Shri Hon Ashwin V.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 21st February, 2017

Per Court:

1 While issuing notice, this Court had observed in the order dated 03.08.2016 as under:-

- "1. The petitioners are aggrieved by the common judgment and order dated 13/04/2016 delivered by the College and University Tribunal in Appeal No.10/2015 and 16/2015 thereby concluding that the appeals are not maintainable since the petitioners are employees of the Polytechnic College and can approach the School Tribunal under the M.E.P.S. Act. Mr.Patil submits that the documents available with the petitioners would indicate that they are working with the College of Engineering from 2008. Actually they are working with the said College from 1996.
2. Issue notice to the respondents, returnable on 30/08/2016.

3. *The litigating sides may note that these petitions are likely to be heard finally at admission stage."*

2 After the learned Advocates for the respective sides were heard on 13.02.2017, this Court had observed as under:-

- "1. *After hearing the learned Advocates for sometime, in the backdrop of the University Tribunal concluding that the appeals are not maintainable, I find that there are several contradictory documents in so far as the employment of these petitioners in a particular institution is concerned. The extracts of service book indicate that these petitioners are working in the College of Engineering. In a previous round of litigation before the Industrial Court, these petitioners are said to have averred that they are working in the Polytechnic College. It is stated by the petitioners that the management has not issued appointment order though these employees were working since 1996 till their termination on 25.7.2015.*
2. *In the above backdrop, I deem it proper to direct the respondent No.1 / management to make the original service books of these petitioners available for perusal.*
3. *S.O. to 21.2.2017. The matter shall appear in the supplementary board. The respondent / management shall keep the original service books available for scrutiny."*

3 Shri Hon, learned Senior Advocate appearing on behalf of the Respondent/ Management, has placed before this Court the original Service Books of both the Petitioners.

4 It requires no debate that the service book of every employee is a sacrosanct document and is a documentary evidence of engagement of

an employee in service. All entries pertaining to the service of an employee are to be maintained in the service book. The probative value of the original service book cannot be doubted and cannot be questioned, is the rule.

5 I find from the service books that the entire employment details of these Petitioners have been mentioned and at regular intervals the service books have been updated by the competent authorities. The entries are doubly checked and signatures appear of the competent authorities. The salary to be fixed as per the sixth pay commission recommendations also finds a specific noting in the service book dated 01.10.2010. The next date of increment is also mentioned as 01.07.2011. Prima facie, in my view, the Tribunal could not have brushed aside the sanctity of the service book entries on assumptions and presumptions.

6 It is stated by the Respondent that the Petitioners worked in the same premises in which the Engineering College as well as the Polytechnic College are situated. Possibility of rotation of the Petitioners from one place to another place cannot be ruled out. It was expected of the Tribunal to give weightage to the original documents as well as the service books and consider them with due circumspection. I do not find that the conclusion of the Tribunal in brushing aside the service books

could be sustained.

7 Nevertheless, both litigating sides before this Court have no objection if the matter is remanded back to the Tribunal so as to enable the Tribunal to consider the entire service records of these Petitioners inclusive of their original payment registers which bear their signatures and such other documents which would throw light on the actual engagement of the Petitioners and their induction in employment with a particular establishment.

8 Considering the above, both these Writ Petitions are partly allowed. The impugned judgment of the University and College Tribunal dated 13.04.2016 is quashed and set aside and Appeal Nos.10 and 16 of 2015 filed by these two Petitioners are remitted to the University and College Tribunal at Pune with the following directions:-

- (a) All the litigating sides shall appear before the University and College Tribunal, Pune on 17.03.2017. Formal notices need not be issued by the Tribunal.
- (b) In the event, none represents Savitribai Phule Pune University, Pune through it's Registrar, the Tribunal can issue notice to ensure the presence of the said University.
- (c) The Respondent/ Management i.e. Secretary of the Education

Institution shall produce the original Service Books along with the original payment registers and attendance registers bearing the signatures of these two Petitioners for whatever period as may be available and at least for a period of 10 years, before the Tribunal, within a period of two weeks from the date of appearance before the Tribunal.

- (d) The Petitioners are at liberty to produce such documents as may be necessary.
- (e) The Tribunal shall reconsider the Appeals considering the objections of the Respondent/ Management and shall conclude on the basis of the original documents as to whether, the Petitioners are working with the Engineering College or not. In doing so, the Tribunal shall consider the legality and sanctity of the Service Books.
- (f) It is expected that the Tribunal would decide the appeals filed by the Petitioners as expeditiously as possible.
- (g) All contentions of the litigating sides are kept open.

9 The original Service Books shown to the Court are returned to the learned Senior Advocate.