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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5427 OF 2006

Ramesh Rakhamaji Jagtap

...Petitioner

VS

The Secretary, Rayat Shikshan Sanstha & Ors. ...Respondents

.....

Mr P.N.Joshi i/b Mr Kishor Patil a/w R.M.Haridas for the
Petitioner

Mr Milind Deshmukh for Respondent Nos.1 and 2.

Mr A.R.Metkari AGP for Respondent No.3.

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**CORAM : PRASANNA B. VARALE J.
SEPTEMBER 14, 2017.**

P.C.:

Heard the learned Counsel for the Petitioner at length.

It is submitted by the learned Counsel for the Petitioner that the Petitioner who had joined the services of the Respondent Institute, namely, Rayat Shikshan Sanstha and the school run by the Institute, namely, New English School, Dapur sometime in the year 1994. It is submitted by the learned Counsel for the Petitioner that the Petitioner was possessing the requisite qualification to be appointed to the post of Junior Clerk. It was submitted by the learned Counsel for the Petitioner that the

Petitioner worked with the Respondent institute from 20/07/1994 to 16/03/1996; from 18/03/1996 to 15/09/1997 and the Petitioner could have been granted the status of permanent employee, but to defeat the Petitioner from his lawful claims the Petitioner was appointed by giving posting in leave vacancies. The Petitioner was under the belief that the Respondents would issue a permanent order to the Petitioner as a permanent employee considering the length of his services with the institute. The Petitioner worked with the Respondent Institute till 31st January, 2001 but the Petitioner was refused to sign muster roll from August 2000. The refusal to sign the Muster roll to the Petitioner was an act of otherwise termination or oral termination and as such the Petitioner by filing an appeal before the Presiding Officer of the School Tribunal raised his grievances and prayed for setting aside his termination with further prayer for reinstatement in the services with back wages. Learned Counsel for the Petitioner submitted that in the appeal memo it was the claim of the Petitioner that the Petitioner was appointed in the year 1994, in the leave vacancy of one employee Mr U.K. Khairnar. Subsequently, the Petitioner has placed on record certain material, namely, the letters

addressed to the Respondents in the year 2000. It was stated in those letters that the Petitioner even worked in the year 1986, 1987, 1990 and 1992. Learned Counsel for the Petitioner then submitted that to support the termination the ground was raised by the Management of the Petitioner being overage and refusal of the Administrative Officer of the higher education. Learned Counsel for the Petitioner then submitted that though the material was placed before the Tribunal in the form of the proposal submitted by the Head-Master seeking approval, the Tribunal failed to consider the material placed before it and on erroneous assumptions and presumptions dismissed the appeal.

2 The learned Counsel also submitted that the Tribunal though awarded compensation to the Petitioner by way of direction to Respondent No.1 to pay salary of six months as a compensation, the compensation is too meager and inadequate considering the length of service tendered by the Petitioner to the Institute.

3 Learned Counsel appearing for the Respondent Management supports the order. Learned AGP appearing for

Respondent No.3 also supports the order.

4 With the assistance of learned Counsel for the respective parties, I have gone through the material placed on record. The Tribunal after considering the fact that the Petitioner / Appellant was appointed with the Respondent Institute in the year 1994, worked with the Institute till 1996 and subsequently from 18/03/1996 to 1997 in the leave vacancy of one Mr Khairnar, was not entitled for the claim of wages. The Tribunal also found that there was no appointment order placed on record though the Petitioner claimed that he was appointed in the year 1994 on leave vacancy. The Tribunal also took note of the fact that for a certain period, the Petitioner worked with the Institute in connivance with Head-Master and at no point of time the approval was granted by the Education Officer. Thus considering these facts, namely, the appointment itself was a periodical appointment on leave vacancy, the approval could not have been granted to the Petitioner as the Petitioner, at the time of his so called appointment was overage, dismissed the appeal. No error is found in the order of the Tribunal.

5 Though the learned Counsel for the Petitioner made an attempt to submit that the relevant provisions under the Act and more particularly under the M.E.P.S. Rules refer to only about the prescription of the minimum age of the candidate and there is no prescription of maximum age. The submission of the learned Counsel cannot be accepted for the reason that even though there is no prescription of the maximum age, there would be reasonable age for the teacher and it cannot be stretched to say that at any point of the life a candidate can be appointed in the Institute for imparting the education to the students.

6 The learned Counsel was justified in submitting that the compensation awarded to the Petitioner was too meager and inadequate considering the age of his service, the Tribunal awarded the pay or salary of six months by way of its compensation. The Tribunal had observed that it is admitted fact that the Petitioner was appointed w.e.f. 27/12/1994 to 16/03/1996 and again from the period from 18/03/1996 to 15/9/1997. Considering this length of the services of the

Petitioner, the service span of the Petitioner comes nearly to 34 months. Learned Counsel for the Petitioner submits that the Petitioner was drawing salary in the year 1996 at the basic salary of Rs.950/- plus other entitlement. Considering the basic salary of the Petitioner in the year 1996 and considering the fact that the Petitioner at least worked with the Institute for nearly 34 months, in my opinion the reasonable compensation would be Rs.30,000/-. The Petition can be thus disposed of in the above terms. Hence, the order:-

ORDER

- (a) The Petition is partly allowed;
- (b) The Respondent Management i.e. Respondent No.1 to pay an amount of Rs.30,000/- to the Petitioner by way of compensation within a period of four months from today. This amount of compensation is exclusive of the compensation awarded by the Tribunal;
- (c) There shall be no order as to costs;

(PRASANNA B. VARALE J.)