

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 2176 OF 2016

Shri Govind Manikrao Sarolkar

...Petitioner

Versus

Samaj Seva Mitra Mandal Karmala

And Ors.

...Respondents

With

Civil Application No.219 of 2017

In

Writ Petition NO. 2176 OF 2016

....

Mr. N.V. Bandiwadekar i/b. M.G. Bagkar, Advocate for petitioner.

Mr.S.P. Rajepandhare i/b. Ajay A. Joshi, Advocate for Respondent No.1.

Ms. Jyoti Jadhav, AGP for respondents No.2 and 4.

Mr.PB. Shah a/w. Y.G. Thorat i/b. A.B. Tajane, Advocate for Respondent No.3.

Mr. Rahul Kadam, Advocate for intervenors in CAW/219/2017.

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CORAM : R. G. KETKAR, J.

DATE : 11th JULY, 2017

P.C.

1. Heard Mr.N.V. Bandiwadekar, learned Counsel for the petitioner, Mr.S.P. Rajepandhare, learned Counsel for respondent No.1, Ms.Jyoti Jadhav, learned A.G.P. for respondents No.2 & 4, Mr. P.B. Shah, learned Counsel for respondent No.3 and Mr.Rahul Kadam, learned Counsel for the intervenors, at length.

2. By this Petition under Articles 226 and 227 of the Constitution of India, the petitioner has challenged the judgment and order dated 3.10.2015 passed by the learned Presiding Officer, School Tribunal, Solapur (for short, "Tribunal") in Appeal No.14/2012. By that order, the Tribunal dismissed the appeal preferred by the petitioner challenging the resolution dated 30.8.2011 passed by respondent No.1 promoting respondent No.3 as Headmaster w.e.f. 1.8.2009.

3. It is the case of the petitioner that by appointment letter dated 31.8.1986, the petitioner was appointed as a Physical Teacher w.e.f. 1.9.1986. Respondent No.3 was appointed as Assistant Teacher w.e.f. 20.7.1989. Thus the petitioner is senior to third respondent. Respondent No.1 had prepared seniority list in the year 1999-2000. In that seniority list, the petitioner was shown at Sr. No.14 and third respondent was shown at Sr. No.18. In the seniority list of the year 2006-07, the petitioner was shown at Sr. No.12 and third respondent was shown at Sr. No.16. Respondent No.3 did not raise objections to the seniority lists of the years 1999-2000 and 2006-07.

4. It is the case of the petitioner that Shri N.G. Bobe, who

was working as Headmaster retired on 31.5.2006. Respondent No.1 wanted to appoint one Mr. Ramesh Kavade as Headmaster and obtained no objection letters from 22 teachers. Ramesh Kavade was promoted as Headmaster and third respondent was promoted as Assistant Headmaster on 10.5.2007.

5. Mr. Bandiwadekar submitted that the Tribunal dismissed the appeal mainly on the ground that respondent No.3 was promoted as Assistant Headmaster on 10.5.2007 and, therefore, fell in the category "B" and the petitioner is in the category "C". Respondent No.3, being senior to the petitioner, respondent No.1 was justified in appointing him on the post of Headmaster w.e.f. 1.8.1989. Mr. Bandiwadekar relied upon Rules 3, 12 and Schedule F to contend that the Tribunal committed error in holding that the third respondent was senior to the petitioner.

6. On the other hand, the learned Counsel for the respondents supported the impugned order and submitted that the Tribunal rightly held that the third respondent is senior to the petitioner.

7. I have considered the rival submissions advanced by

learned Counsel appearing for the parties. I have also perused the material on record. A perusal of the record shows that respondent No.3 was appointed on the post of Assistant Headmaster on 10.5.2007. Category "B" of Schedule F reads thus :

"Category B: Heads of secondary schools having an enrolment of students of 500 and below, Principals of Junior Colleges of Education having four or less Divisions and Assistant Heads of Secondary schools having more than 20 classes on the basis of the dates of their appointments to the respective posts."

8. As against this the petitioner being Trained Graduate Teacher falls in the category "C". In view thereof, it has to be held that the third respondent was senior to the petitioner and accordingly was promoted on the post of Headmaster.

9. Apart from this, the petitioner had instituted W.P. No.2177/2016 challenging the order dated 3.10.2015 passed by the Tribunal dismissing his appeal No.16/2012. The petitioner had filed that appeal challenging promotion of respondent No.3 is Assistant Headmaster w.e.f. 10.5.2007 on the ground that he is senior to respondent No.3. While dismissing that Petition on 20.6.2017, it was held that the petitioner cannot claim to be

senior to respondent No.3. For the reasons recorded in that order also, it cannot be said that the petitioner is senior to respondent No.3. I, therefore, do not find that the Tribunal committed any error in dismissing the appeal. Hence, the Petition fails and the same is dismissed. In view of dismissal of Writ Petition, Civil Application No.219/2017 for intervention does not survive and is disposed of. Order accordingly.

(R. G. KETKAR, J.)

Deshmane (PS)