

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

C.A.O. NO.889/2014
IN
M.C.A. STAMP NO.10213/2014
IN
WRIT PETITION NO.6133/2012 (D)

Umesh S/o Laxman Bisen

..Vs..

The Secretary, Co-ordination Committee, Gondia Education Society, Gondia
and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri P.N. Shende, Advocate for the applicant / petitioner.
Shri N.R. Patil, A.G.P. for respondent Nos.2 and 4.

CORAM : Z.A.HAQ, J.

DATE : 15.3.2017.

Heard.

For the reasons stated in the application, the
delay of 199 days in filing the review application is
condoned. The civil application is allowed. No costs.

M.C.A. STAMP NO.10213/2014

Heard.

By this application the original petitioner /
employee seeks review of the judgment passed by this
Court in Writ Petition No.6133/2012 on 19th September,
2013.

The petitioner had filed an appeal before the
School Tribunal contending that his services were

illegally terminated and sought reliefs as prayed for in the memorandum of appeal. The Management denied the claim of the employee. The School Tribunal found that the appointment of the employee was not made by following procedure prescribed by Section 5 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and dismissed the appeal. The order passed by the School Tribunal was challenged by the employee before this Court in Writ Petition No.6133/2012 which is dismissed on 19th September, 2013.

The contention of the petitioner / employee is that he was initially appointed in the school administered by the respondent / Society on 24th June, 1997 as Physical Training Instructor and continued in the employment, that one post of Physical Training Instructor was vacant, the Education Officer granted permission to the Management to fill up the post, the Management issued advertisement inviting qualified and eligible candidates for interviews and issued appointment order dated 22nd February, 2000 in favour of the petitioner. According to the petitioner, he continued in the employment till 14th October, 2003 when he was restrained from discharging the duties. Treating this as otherwise termination the petitioner had filed appeal before the School Tribunal.

The Advocate for the petitioner has submitted that this Court while dismissing the petition has recorded that the appointment of the petitioner is not legal

overlooking that the petitioner was appointed after the post was advertised, interviews were conducted and petitioner being qualified and eligible for the post was selected and given the appointment order. The petitioner relies on the copy of advertisement alleged to have been issued on 20th or 21st February, 2000.

According to the petitioner, the Education Officer granted permission to the Management to fill up the post by the communication issued on 16th February, 2000. The petitioner claims that after receiving the permission to fill up the post, advertisement was issued in daily newspaper dated 20th or 21st February, 2000. The petitioner has avoided to give the name of the newspaper in which the advertisement was published as alleged. The copy of advertisement is placed on the record at page No.9 Annexure I of the review application which shows that the candidates were invited for interviews on 21st February, 2000. Thus, even if the submissions made on behalf of the petitioner are accepted, the interviews for the post were held on 21st February, 2000 i.e. immediately after the advertisement was published. The copy of advertisement referred above shows that the Scheduled Tribe candidates were to be given preference. Total four posts were advertised, out of which one was of Physical Training Instructor and three posts were of Assistant Teacher. There is nothing on the record to show whether any candidate belonging to Scheduled Tribe was available at the time of the interviews. The petitioner has not pleaded that pursuant to the

advertisement, on which he relies, interviews were conducted and he attended the interview.

The above facts show that false claim is made by the petitioner and considering the reply filed by the Management before the School Tribunal, it is clear that the Management supported the petitioner. I find that a false claim is made by the petitioner as well as the Management in collusion.

I do not find any error apparent on the face of record which necessitates the exercise of review jurisdiction.

The application is dismissed with costs quantified at Rs.60,000/- (Rs. Sixty Thousand Only) out of which the petitioner shall pay Rs.20,000/- (Rs. Twenty Thousand Only) and the Management shall pay Rs.40,000/- (Rs. Forty Thousand Only) to the Education Officer (Secondary), Zilla Parishad, Gondia.

The costs shall be paid within one month, failing which the Education Officer shall take steps to recover the amount of costs.

The Education Officer will be at liberty to recover the amount of costs from the Management of the School by taking coercive steps.

JUDGE