

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2 OF 2000

Satish Hanmantrao Dikale,
Age-29 years, Occu-Service,
Assistant Teacher (Physical Education),
Jagdamba Kanya Prashala,
Khamaswadi, Tq.Kalla,
Dist.Osmanabad

-- PETITIONER

VERSUS

1. Jagdamba Shikshan Prasarak Mandal,
Khamaswadi, Tq.Kallam,
Dist.Osmanabad,
Through its Secretary,

2. The Head Master,
Jagdamba Kanya Prashala,
Khamaswadi, Tq.Kallam,
Dist.Osmanabad,

3. The Education Officer
(Secondary),
Zilla Parishad,
Osmanabad

4. The Presiding Officer,
School Tribunal at
Aurangabad

-- RESPONDENTS

Mr.V.Y.Patil h/f Mr.S.R.Barlinge, Advocate for the petitioner.
Mr.A.B.Tele, Advocate for respondent Nos. 1 and 2.
Mr.S.R.Yadav-Lonikar, AGP for respondent No.3.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 03/03/2018

ORAL JUDGMENT :

1. I have heard the strenuous submissions of Mr.Patil on behalf of the petitioner and Mr.Tele, learned Advocate on behalf of the respondent/Management. With their assistance, I have gone through the petition paper book and they have appraised me with the subsequent events that have occurred during the pendency of this petition.

2. There is no dispute that after the petitioner was engaged as an "Assistant Teacher" for the academic year 1992-93, since he had acquired the qualification of B.Sc. B.P.Ed., he was disengaged on 13/06/1996 for the only reason that an approval was not accorded by the Education Department. He was, however, continued in employment and the termination was not given effect to. He, therefore, approached the School Tribunal by filing Appeal No.124/1996. The said appeal was dismissed by the impugned order dated 06/11/1999 on account of the reasons that the petitioner was not granted approval and there was a pendency of the backlog.

3. This Court, by order dated 12/01/2000, granted interim relief to the petitioner and protected his services. Learned Advocate for the Management informs that the petitioner has, therefore, continued in

employment and there was no interruption in his service since the Tribunal had also protected him against termination. Now, the entire backlog has been filled in. The petitioner is in regular employment and he has also been accorded approval by the Education Department.

4. The issue as regards termination due to want of approval is no longer *res-integra*. The learned Full Bench of this Court in the matter of St.Ulai High School Vs. Shri Devendraprasad Jaganath [2007(109) Bom.L.R.60 = 2007(1) Mh.L.J.597] has laid down the law that an employee need not be terminated for lack of approval if the Management desires to continue him in employment. The only rider would be that his salary would not be paid through salary grants, if such an institution is a grant-in-aid institution.

5. Considering the above, I find that the impugned judgment of the School Tribunal dated 06/11/1999 cannot be sustained in the light of the judgment of the learned Full Bench in St.Ullai case (supra) and in view of the information supplied by the learned Advocate for the Management, on instructions, that the backlog has been filled in and the petitioner continues in employment with an approval.

6. This petition is, therefore, allowed. The impugned judgment dated 06/11/1999 delivered by the Tribunal is quashed and set aside and Appeal No.124/1996 stands allowed. Consequentially, the termination order dated 11/06/1996, having not been given effect to in the fact situation as recorded above, stands quashed and set aside.

7. Rule is made absolute in these terms.

(RAVINDRA V. GHUGE, J.)