

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.307 OF 2000
(Shishu Vihar Sanstha Vs. Vivek Kashinath Desale and others)

Mr.S.P.Shah, Advocate for the petitioner.
Mr.S.P.Brahme, Advocate for respondent No.1.
Mr.S.V.Kshirsagar h/f Mr.A.S.Deshpande, Advocate for respondent
No.4.
Mr.V.S.Badakh, AGP for respondent No.3.

(CORAM : RAVINDRA V. GHUGE, J.)
DATE : 01/02/2018

PER COURT :

1. The petitioner/Management is aggrieved by the judgment and order dated 23/09/1999 delivered by the School Tribunal in Appeal No. JAL-39/1998, by which and the respondent was granted reinstatement with continuity and full back wages by setting aside his termination dated 13/06/1998.

2. While admitting this petition by order dated 15/01/2002, this Court declined interim relief to the petitioner / Management. Consequentially, the Management has complied with the judgment of the School Tribunal and reinstated respondent No.1. on 31/12/2001. His service is already approved. He has already been paid due scale of a trained graduate teachers. His back wages were also deposited in this Court and by the leave of this Court, the said back wages have

been withdrawn by the respondents on 19/04/2003. In effect, the impugned order has been fully complied with and respondent No.1 / original appellant, who has been in service from 24/11/1997 has practically put in 21 years as a teacher of English subject with the petitioner / Management.

3. Learned Advocate for the Management has strenuously criticized the impugned order. He has drawn my attention to the 7 grounds formulated in the memo of the petition. With the assistance of the learned Advocates, I have gone through the petition paper book.

4. This Court had heard the learned Advocates at length on 09/01/2001 and had concluded at a prima facie stage that the impugned order does not deserve to be stayed. His probation period of 2 years was also completed.

5. Pursuant to the above, as the respondent / appellant has been reinstated in service, granted approval and due scale of a trained graduate teacher and also paid his back wages by the petitioner/ Management which is a grant-in-aid institution, it is obvious that the respondent/appellant has settled in employment over the past 21

years. It is in this backdrop that this petition is rendered of an academic interest. As such, I do not deem it appropriate to go into the challenge put forth by the Management.

6. Learned Advocate for the Management, however, makes a point that as the Institution, in which the respondent/appellant was imparting education as a teacher of English subject, is a grant-in-aid institution, salary grants are available and it is only through the salary grants that the salary of approved teachers is paid. It is also informed that after the termination of the appellant, his post was kept vacant and it is not the case that somebody else was appointed in his place and who may have been paid regular salary through the salary grants. On this premise, learned Advocate for the Management strenuously submitted that the Management is legitimately entitled to reimbursement of the back wages that they have paid to the applicant through the salary grants. Earlier, the Education Department had rejected this request on the ground that the appellant had not worked during that period.

7. Learned AGP appearing on behalf of respondent No.3 submits that if it appears from the record that after the termination of the appellant, no other person was appointed in his place and as such

the salary grants for the post occupied by the appellant were not utilized, the proposal sent by the Management on this count can be considered in accordance with the Rules and appropriate orders can be passed.

8. Considering the above, this petition is disposed of. The petitioner/Management would be at liberty to forward a proposal to respondent No.3 for seeking reimbursement of the back wages towards the salary paid to the respondent appellant, from the salary grants. In the event, such a proposal is forwarded by the Management within a period of 6 weeks from today, respondent No.3 shall consider the said proposal in accordance with its rules and shall take a decision on the said proposal expeditiously and preferably within a period of 8 weeks thereafter.

9. Needless to state, the outcome of the decision of respondent No.3 on the said proposal shall be communicated to the petitioner / Management.

10. Rule is discharged.

(RAVINDRA V. GHUGE, J.)