

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

Writ Petition No.3478 of 2009

* Sunita D/o. Laxman Sonar,
Age 44 years,
Occupation: Nil,
R/o N-4/G-39, CIDCO,
New Aurangabad. **.. Petitioner.**

Versus

- 1) The State of Maharashtra,
Through its Secretary,
Rural Development /
School Education Department,
Mantralaya, Mumbai.
- 2) The Chief Executive Officer,
Zilla Parishad, Aurangabad.
- 3) The Education Officer,
Zilla Parishad, Aurangabad.
- 4) The Block Education Officer,
Panchayat Samiti, Gangapur,
District Aurangabad. **.. Respondents.**

Shri. Rajendra M. Sharma, Advocate, appointed for
petitioner.

Mrs. D.S. Jape, Assistant Government Pleader, for
respondent No.1.

Miss Pooja Patil, Advocate holding for Shri. Deelip Patil
Bankar, Advocate for respondent No.3.

**Coram: T.V. NALAWADE &
K.L. WADANE, JJ.**

Date: 12 APRIL 2018

JUDGMENT (Per T.V. Nalawade):

1) The petition is filed under Articles 226, 12,14,16 of the Constitution of India against Zilla Parishad Aurangabad for setting aside the orders which amount to termination, dated 30-11-1994, 30-4-1998 and for relief like giving direction to the respondents to give all the monetary benefits to the petitioner on the basis of her appointment which was made prior to 1994. Both the sides are heard.

2) The submissions made show that there is chequered history of the litigation which was started by the petitioner. She was appointed as Assistant Teacher in primary school of respondent in the year 1993 but in the year 1994 she was terminated. This termination was challenged by her by filing Writ Petition No.154/1995. Interim relief was given and so she was reinstated. As the proceeding was not prosecuted the petition was dismissed

and then second order of termination came to be passed on 30-4-1998. It appears that she had crossed the age limit and she made representation for relaxation of the age limit and direction was also given by the High Court in other writ petition to consider the representation. She could not get any relief in that matter. She wanted to complete D.Ed. course but as she was not in service, it was not possible to allow her to appear for D.Ed. examination. She then came to this Court for seeking direction in that regard and for getting relief like permission to appear for D.Ed. examination, in this Court she gave undertaking that she was giving up all the claims in respect of her appointment made in the Zilla Parishad in the year 1993. After the undertaking, the Court made order and due to the order of this Court she completed the D.Ed. course.

3) The petitioner had taken the decision of Writ Petition No.5618/2003 upto Supreme Court but she could not succeed in that matter and so order of termination made against the petitioner was not disturbed.

4) Learned counsel for the petitioner submitted that in all the proceedings the legality of the termination was not considered and that needs to be addressed. This submission is not at all acceptable as one order of termination was taken up to Supreme Court but the petitioner could not succeed in that matter. Further, in this Court the petitioner gave undertaking that she was giving up all her claims in respect of her appointment made by the respondent in the year 1993. Due to all these circumstances it cannot be said that anything has remained which needs to be decided by this Court in the present matter.

5) Learned counsel for the petitioner has placed reliance on some observations made by this Court and the Apex Court in many cases and the cases are as follows:-

- (1) **1996(1) Mh.L.J. 859 (Hanmant v. State of Maharashtra)**
- (2) **(1986) 4 SCC 146 (Indian Oil Corpn. Ltd. v. State of Bihar);**
- (3) **AIR 1978 SC 1283 (The Workmen of Cochin Port Trust v. The Board of Trustees of the Cochin Port Trust);**

6) Facts and circumstances of each and every case are always different. There are the aforesaid peculiar facts of the present matter. It can be said that the petitioner is now interested only in getting some monetary benefits. Due to the aforesaid circumstances this Court holds that the matter cannot be reopened and no relief can be granted to the petitioner. In the result, the petition stands dismissed. Rule stands discharged. The fees of the learned counsel appointed for the petitioner is quantified at Rs.5000/- (Rupees Five Thousand only).

Sd/-
(K.L. WADANE, J.)

Sd/-
(T.V. NALAWADE, J.)

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