

**IN THE HIGH COURT AT BOMBAY  
APPELLATE SIDE, BENCH AT AURANGABAD**

LETTERS PETENT APPEAL NO. 82 OF 2005  
IN  
WRIT PETITION NO. 1874 OF 1996  
WITH  
CIVIL APPLICATION NO. 13415 OF 2016

Maruti Pandurang Jambhale,  
Age      Years, Occu.  
R/o. Final Plot No. 150,  
Jambhale Nager, Dhule.

**....Appellant.**

**Versus**

1. Shri. Shivaji Vidya Prasarak  
Sanstha, Dhule.  
Through it's Chairman,  
having registered office at  
Gat No. 6, CTS No. 1596/97,  
Dhule.
2. The Principal of the Science  
College of Shri. Shivaji Didya  
Prasarak Sansta, Dhule.
3. The Presiding Officer,  
University Tribunal at Pune,  
Pune.

**....Respondents.**

Mr. H.V. Tungar, Advocate for appellant.

Mr. Pradeep Deshmukh, Advocate for respondent No. 1.

**CORAM : T.V. NALAWADE AND  
SUNIL K. KOTWAL, JJ.  
DATED : JANUARY 19, 2018.**

**JUDGMENT : [PER T.V. NALAWADE, J.]**

1) The appeal is filed to challenge the decision given by the learned Single Judge of this Court in Writ Petition No. 1874/1996. The said petition was filed by present appellant to challenge the judgment

and order of College Tribunal (Pune University), Pune delivered in Appeal No. P.U. 8/86. The appeal was filed by the present appellant for relief of giving direction to the respondent employer, college to see that continuation in service is given to him by treating that his resignation was withdrawn by him. He had also prayed for giving direction to make payments of salary and other allowances for the period from 13.4.1984 to 9.9.1984, 5.12.1984 to 18.12.1984 and also from the period starting from 1.4.1986. The proceeding before the Tribunal was filed on 29.4.1986 and the submissions made show that the appellant joined other service in the year 1995 and he retired on that post. Both the sides are heard.

2) The appellant was working as Post Graduate Teacher with respondent college and he had joined the service in the year 1970. He tendered the resignation on which he had shown the date of tender as 25.12.1986 and it was actually handed over to respondent employer on 7.12.1984. On the ground of ill health, he had tendered the resignation. In the meeting of the committee of the respondents dated 23.3.1986, this resignation came to be accepted.

3) It is the case of the appellant that he had withdrawn the resignation prior to the date of acceptance by respondents and so, he is entitled to aforesaid reliefs. In Civil Application, he has produced

some record which include zerox copies of one so called telegram sent by the appellant on 18.1.1986. By showing this record, he wants to show that well before the acceptance of resignation, it was withdrawn by him. This Court has carefully gone through the memo of appeal filed before the Tribunal. In para No. 17 of the memo, he had mentioned about sending of telegram and also sending of letter through post on 21.1.1986. This contention was denied by respondents in their written statement and it can be said that this contention was considered by the Tribunal, but it was not accepted. In Writ Petition, the learned Single Judge of this Court has held that the resignation was voluntarily given and it was rightly accepted. In the appeal, it was submitted that the learned Single Judge has not considered the relevant record with regard to the withdrawal of the resignation and so, the decision of the learned Single Judge needs to be set aside.

4) This Court has carefully gone through the entire record which contains rival contentions. The service record of the appellant was not that good. The contentions made show that the employer had accommodated him on every occasion. He was granted study leave for the period from 23.9.1977 to 22.9.1980, but he could not complete his research work during that period. In the year 1983 to 1985 he was again granted leave. The contentions made show that he was not

discharging his duty, but he was showing his presence. He was trying to get the salary in respect of vacation period though he was not attending the duty. On all occasions, when it was noticed that he was not on duty, he had applied for leave without pay and that was granted.

5) The contentions and the record show that after the meeting dated 23.3.1986 he made another attempt to create complication and he left the application for leave for 23.3.1986 and 24.3.1986. One professor of his own department had accepted the letter from the appellant and he had made endorsement to show the date of receipt as 24.3.1986. Thus, this letter was given subsequent to the acceptance of the resignation by the employer. The record and the submissions show that he was suffering from serious illness and due to that he had serious problem of breathing. For about two and half years prior to tendering of resignation, he was sick and different kinds of leave were sanctioned to him. He has tried to contend that he was forced by the Principal to give signature on blank paper for sanction of leave, but this contention is not acceptable as in the past on all the occasions leave was sanctioned to him. His conduct that subsequently he accepted other employment also speaks volume about this conduct. Thus, on facts the learned Single Judge has held that it was voluntary resignation and it was rightly accepted. It cannot be said that this

Court, the learned Single Judge has not gone through the reasoning given by the Tribunal in appeal. In the appeal memo, the aforesaid contentions were made by the present appellant before the Tribunal. In view of these circumstances, this Court holds that it is not possible to believe that the learned Single Judge has not considered the circumstances which the appellant has raised for challenging the decision of the Tribunal.

6) The learned counsel for appellant placed reliance on some observations made by the Apex Court in the case reported as **LEX (SC) 1999 1 72 SUPREME COURT OF INDIA [Sangamesh Printing Press Vs. Chief Executive Officer Taluk Development Board]**. There cannot be dispute over the proposition made by the Apex Court. The facts of the present matter are altogether different. It is clear that at the time of filing of the Writ Petition, he suppressed that he had joined other service. The other conduct of the present appellant is already mentioned. This Court holds that it is not possible to interfere in the decision given by the learned Single Judge of this Court. In the result, the appeal is dismissed. Civil Application stands disposed of.

**[SUNIL K. KOTWAL, J.]**

**[T.V. NALAWADE, J.]**

ssc/