

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

941 WRIT PETITION NO. 6782 OF 2014
WITH CA/8451/2015 IN WP/6782/2014 WITH CA/4024/2016 IN WP/6782/2014

RAMESH DAGADU DHUMAL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Vinod Prakash Patil
AGP for Respondents: Mr. S.S. Dande
Adv. for Respondent no. 6 : Mr. A.D. Shinde

CORAM : R.M. BORDE &
K.K. SONAWANE, JJ.

DATE : 18th April, 2018.

PER COURT:-

The grievance raised by the petitioner in the instant petition is that though he claims to be functioning as Laboratory Assistant, in view of the promotion awarded to him by the management, he has not been paid salary w.e.f. 1.4.2013. The petitioner was appointed as a Peon in the school run by the respondent management, on 1.7.1994. The services of the petitioner were approved by the Education Officer. The management considering the seniority of the petitioner awarded him promotion to the post of Laboratory Assistant on a vacant post by issuing order dated 26.3.2013. The petitioner claims that he is discharging the duties of Laboratory Assistant since the date of his promotion. Since the petitioner has not been paid salary, he has approach this court seeking directions as noted above.

2] The stand adopted by the respondents is that, promotion awarded to the petitioner by the erstwhile management is without authority. It is brought to our notice that there are disputes in the management and

some office bearers, claiming their entitlement to control the affairs of the institution, have issued the order in favour of the petitioner thereby appointing him as Laboratory Assistant. It is further informed that the State Government has appointed an Administrative Committee to manage the affairs of the educational institution by order dated 18.7.2012. The Government appointed Administrative committee awarded promotion to the post of Laboratory Assistant in favour of one Tanaji Arjun Chaudhari and that the appointment of the aforesaid employee has been approved by the Education Officer and he is being paid salary prescribed for the promotional post. The petitioner cannot claim to hold the post which has already been occupied by one Shri Chaudhari. This court, by order dated 10.1.2018 directed the Education Officer (Secondary), Zilla Parishad, Jalgaon to hear the petitioner as also the authorized representative of the management and to prepare a report and submit the same to this court.

3] The Education Officer was directed to scrutinize the entitlement of the petitioner to claim salary for the period between 1.4.2013 till 10.9.2017 for the post of Laboratory Assistant. In pursuance to the directions issued by this Court, the Education Officer has conducted an enquiry and tendered his report on 3.3.2018. It is reported by the Education Officer that since the petitioner has been appointed by the erstwhile management committee, during the continuance of the State appointed Administrator, the promotion awarded to the petitioner to the post of Laboratory Assistant cannot be considered to be valid. The Education Officer, thus, reported that the promotion awarded to the petitioner to the post of Laboratory Assistant is invalid and cannot be approved. It has also been reported that the Administrative Committee has promoted one Mr. Tanaji Arjun Chaudhari and the said employee is being paid salary applicable to the promotional post of Laboratory Assistant. The Education Officer has sought direction for disbursement of the salary to the petitioner applicable to the post of Peon. Considering the report tendered by the Education Officer, claim of the petitioner in respect of entitlement for salary

admissible to the post of Laboratory Assistant cannot be considered.

4] The counsel for management contends that the petitioner has not resumed the duties on the post of Peon. Counsel for petitioner controverts the contentions raised by learned counsel for the respondent and states that he will resume the duties and will report to the management.

5] In these circumstances, writ petition stands disposed of with directions to the respondents to consider the claim of the petitioner for salary for the post of Peon. So far as the back wages claimed by the petitioner is concerned, it would be open for the Education Officer to take appropriate decision after extending an opportunity of hearing to the petitioner as well as representative of the management. The petitioner may tender an application/representation to the Education Officer claiming back wages for the post of Peon, within a period of 4 weeks. If the petitioner tenders appropriate representation, the Education Officer shall pass appropriate orders/directions within a period of 8 weeks from the date of receipt of the representation. The petitioner shall be entitled to get salary for the post of Peon and shall be paid accordingly.

6] With the directions as above, Writ petition stands disposed of.
No costs..

[K.K.SONAWANE, J]

[R.M. BORDE, J]

grt/-