

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

WRIT PETITION NO. 1418 OF 2017

Prakash Ganpat Gadhave	..	Petitioner
Versus		
The State of Maharashtra and others	..	Respondents

Shri.Vivek Dhage, Advocate for Petitioner.

Smt. Vaishali N. Patil, A.G.P. for Respondent Nos. 1 and 4.

Shri. V.P. Latange, Advocate for Respondent Nos. 2 and 3.

**CORAM : S.V. GANGAPURWALA AND
A. M. DHAVAL, JJ.**

DATED : 29th January, 2018

PER COURT:

. The petitioner assails the order dated 30.08.2016 passed by the Education Officer (Secondary), Zilla Parishad, Ahmednagar, declaring him as surplus.

2. Mr. Dhage, the learned advocate for the petitioner submits that the petitioner is appointed as an Assistant Teacher with the Respondent No. 3/school w.e.f. June 1997. In the year 2003, the petitioner was terminated.

The petitioner filed appeal before the School Tribunal. The appeal filed by the petitioner before the School Tribunal is allowed. The management is directed to reinstate the petitioner with continuity in service and back wages. The management assailed the said order by filing Writ Petition No. 6245 of 2006. This Court under order dated 18.06.2007 admitted the writ petition and only stayed payment of back wages. Thereafter, the petitioner is reinstated. The date of appointment of the petitioner has to be considered as 13th June, 1997 and the respondents are wrongly considering the date of appointment of the petitioner as 17th July, 2007. The petitioner is appointed from N.T. (C) category.

3. Mr. Latange, the learned advocate for the Respondent Nos. 2 and 3 submits that after this court denied to grant stay to the reinstatement, the petitioner is reinstated and the Education Officer has accepted the order and reinstatement of the petitioner in the year 2007. There are 3 Assistant Teachers working with the Respondent No. 3/school from N.T. (C) category.

4. We have considered the submissions. It is a matter of record that the petitioner was appointed in June 1997. The petitioner was terminated in the year 2003. The petitioner filed an appeal before the School

Tribunal bearing appeal No. 56 of 2003. The appeal came to be allowed on 18.07.2006. The Institution was directed to reinstate the petitioner forthwith in the service with continuity of service and also back wages. It was further ordered by the School Tribunal that the services of the petitioner shall be deemed to be confirmed as an Assistant Teacher on completion of probation period. This order of the School Tribunal is challenged by the Institution in Writ Petition No. 6245 of 2006. The learned Single Judge of this court on 18.06.2007 admitted the writ petition. However, did not grant any stay to reinstatement with continuity and only granted stay to the extent of back wages that too on condition that the petitioner be reinstated in service within a period of four (4) weeks.

5. Under the judicial order of this court, the termination order is set aside directing the reinstatement with continuity in service. The relevant date of appointment has to be considered as of June 1997 for all purposes. The Education Officer under the impugned communication has declared the petitioner surplus without considering the date of appointment of the petitioner.

6. In light of the above, the impugned order is quashed and set aside.

The Education Officer (Secondary), Zilla Parishad, Ahmednagar shall consider the date of appointment of the petitioner as June 1997 and thereafter take decision afresh with regard to the surplus teacher.

7. The writ petition is disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]