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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
REVIEW PETITION NO. 86 OF 2018
IN
WRIT PETITION NO. 1153 OF 2018

Sahakar Vidya Prasarak Mandal & Anr. ... Petitioners

vs.

Smt. Shreelekha Sunil Ghag ... Respondents

@ Sangita Balkrishna Patole & Ors.

Mr. N. V. Bandiwadekar i/b. Ashwini Navjyot Bandiwadekar for the Petitioner.

Ms. Anupama Bharat Shah for the Respondent.

Ms. M. S. Bane, AGP for Respondent no. 2.

CORAM : A.K. MENON, J.

DATE : 27th SEPTEMBER, 2018

P.C.

1. By this review petition the petitioner seeks review of the judgment dated 4th May, 2018 whereby Writ Petition No. 1153 of 2018 came to be dismissed. The ground on the basis of which the review petition was urged is that the judgment of the Apex Court in the case of *Viman Vaman Awale vs. Gangadhar Makhriya Charitable Trust & Ors.*¹ relied upon the judgment under review was delivered in the case of a primary school and therefore had no application to the instant case where respondent no. 1 was employed in a secondary school.

¹ 2014 (13) SCC 219

2. Mr. Bandiwadekar urged that the aspect of continuous officiation as contemplated in the case of *Viman Vaman Awale (supra)* will not be attracted in the instant case. Guideline no. 1 provides that Seniority of primary school teachers is fixed on the basis of date of joining and continuous officiation. He submitted that the present case is covered by Rule 12 of MEPS Rules, 1981 read with Schedule F. Whereas for a secondary school teachers Guideline no. 1 would not be relevant. According to Mr. Bandiwadekar respondent is not qualified since she entered Category-C only upon obtaining her B.A. degree in the year 1986 whereas the respondent nos. 3 and 4 were already holding B.A. degree on their dates of appointment in 1985 and 1989. Referring to a comparative chart of some other cases, Mr. Bandiwadekar submitted that Rule 12 read with Schedule F apply and the rule of continuous officiation would not be applicable.

3. In the present case it is submitted by Ms Shah for the respondent that as per information received under the RTI Act, the school involved in *Viman Vaman Awale (supra)* is Gangadhar Makhriya Charitable Trust's Sheth G.S. High School which is a secondary school having standards V to X and therefore the judgment of the Supreme Court in *Viman Vaman Awale (supra)* would apply equally in the present case. This aspect is not disputed by the review petitioner.

4. I have heard the counsel for the parties and notice that the principle of continuous officiation which has been dealt with in the judgment of the Supreme Court in *Viman Vaman Awale (supra)* was based on an earlier judgment of the

Supreme Court in the case of *R. B. Desai vs. S.K. Khanolkar*² and it is this principle that has been pressed into service while deciding case of *Viman Vaman Awale (supra)*. Therefore considering the facts in this case, I find no reason to take a different view. I find no reason to entertain the review petition and pass the following order :

- (i) Review Petition is dismissed.
- (ii) No costs.

(A.K. MENON, J.)

Rajeshwari
Ramesh
Pillai

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by Rajeshwari
Ramesh Pillai
Date:
2018.09.27
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