

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

C.A.O. NO.1246/2018

IN

M.C.A. STAMP NO.6872/2018 (R)

IN

WRIT PETITION NO.6287/2014 (D)

The Chief Executive Officer, Z.P. Amravati and others

..Vs..

The Commissioner, Amravati Division, Amravati and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.D. Chopde, Advocate for applicants.

CORAM : Z.A. HAQ, J.

DATE : 20.7.2018.

1. Shri S.D. Chopde, learned Advocate appearing for the review applicants submits that this application praying for condonation of delay of 105 days in filing review application is not required to be considered in view of order passed by this Court on Civil Application (CAO) 44/2018 in M.C.A. Stamp No.17327/2017 in Writ Petition No.4974/2014 by which this Court has held that Article 124 of the Limitation Act, 1963 cannot govern the application seeking review of judgment /order passed under Article 226 of the Constitution of India.

2. Accepting the above statement and as I find that the point is covered by the above referred order, Civil Application (CAO) No.1246/2018 is **disposed** as not pressed.

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3. Heard Shri S.D. Chopde, learned Advocate for the applicants and Shri P.S. Tembhare, learned A.G.P. for the non-applicant No.1.

4. This application is filed by the original respondent No.3 praying that the judgment passed by this Court in Writ Petition No.6287/2014 on 6th November, 2017 be reviewed and writ petition be taken up for hearing. Review of the judgment passed in writ petition is sought on the following two grounds:

(i) The consideration that 50% of the posts of Assistant Teachers were required to be filled in by promoting or nominating in-service candidates is not correct, and there is no such reservation / quota for in service candidates.

(ii) The other consideration that the original petitioner was denied his legitimate claim of promotion though Shri G.U. Avinashe and Shri Dange who were junior to the petitioner were given promotion or were absorbed is also not correct, as Shri G.U. Avinashe and Shri Dange were senior to original petitioner.

5. As far as first ground is concerned, I find that the submission was made on behalf of Zilla Parishad (original respondent Nos.1 to 3) that 50% of the posts of Assistant Teachers were required to be filled in by promoting or nominating candidates. This is recorded in paragraph No.6 of the judgment. It being so, the submission which is now being made, cannot be considered in review application.

6. As far as the other ground is concerned, in paragraph No.6 of the judgment it is recorded that the original respondents had not placed any material on record to show that Shri G.U. Avinashe and Shri Dange were senior to the petitioner. Though review of the judgment is sought on the ground that this consideration is not correct, again review applicants (original respondent Nos.1 to 3) have not placed any material on record to substantiate this contention.

7. A submission is made that the promotion was wrongly given to Shri Avinashe and Shri Dange and, therefore, that factor cannot be considered for giving relief to the original petitioner. Again this submission is not supported by any material on record. It is submitted that the original respondent Nos.1 to 3 propose to conduct an enquiry in the matter. Though this submission is made at the time of hearing, such averments are not found in the review application. It is not pointed out whether Shri G.U. Avinashe and Shri Dange are still in service.

8. In the above facts, I do not find any error apparent on the face of record which necessitates review of the judgment. The review application is **dismissed**.

9. As I find that the review application is made without there being any substantial ground and loose submission is made that the original respondent Nos.1 to 3 propose to conduct an enquiry in the matter of promotion of Shri G.U. Avinashe and Shri Dange, original respondent No.1 - Chief Executive Officer, Zilla

Parishad, Amravati, original respondent No.2 - Education Officer (Primary), Zilla Parishad, Amravati and the original respondent No.3 - Education Officer (Secondary), Zilla Parishad, Amravati are directed to pay costs of Rs.10,000/- (Rs. Ten Thousand) each to the State of Maharashtra and produce receipt on record of this application within four weeks.

10. The original respondent No.4 - Commissioner, Amravati Division, Amravati shall cause an enquiry in the matter of promotion of Shri G.U. Avinashe and Shri Dange and if it is found that these Teachers were wrongly given promotion, action be taken against officer / officers, who were responsible for the wrong promotions and the amount of costs paid by the original respondent Nos.1 to 3 as per this order be recovered from that / those officers. This exercise shall be completed and report be placed on record, within three months.

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In view of above orders, civil application for interim relief does not survive and is **disposed** accordingly. No costs.

JUDGE