

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4524 OF 2001

Chandar s/o Ganpati Salunke,
Age: 45 years, occu:service Assistant
Teacher, Dr. Babasaheb Ambedkar
Vidyalaya, Osmanabad

Petitioner

versus

- 1 Pankaj Dnandeo Daware
Age: 35 years, occu: I/c Head
Master, Dr. Babasaheb Ambedkar
Vidyalaya, Osmanabad
- 2 The President, Sant Kabir Shikshan
Prasarak Mandal Bhimnagar near
Civil Hospital, Osmanabad
- 3 The Administrator,
Dr. Babasaheb Ambedkar Vidyalaya,
Osmanabad
through the Education Officer,
Secondary, Zilla Parishad, Osmanabad
- 4 The Secretary,
Sant Kabir Shikshan Prasarak Mandal,
Bhimnagar, near Civil Hospital,
Osmanabad
- 5 The Education Officer (Secondary)
Zilla Parishad Osmanabad,
Copy to be serve don Government Pleader
High Court Bench at Aurangabad.

Respondents

Mr. M.P. Tripathi h/f Mr. K.J.Ghute Patil, advocate for the petitioner

Mr. A.S. Bayas advocate for respondent No.1.

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CORAM : **RAVINDRA V. GHUGE, J.**

Date: August 8th, 2019

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ORAL JUDGMENT

1 By this petition, the petitioner, In-charge Head Master, has challenged the Judgment of the School Tribunal dated 11.4.2001,

by which Appeal No.22/96 filed by respondent No.1, original appellant, has been allowed. The letter dated 23/28.2.1996, issued by the Management was set aside and the original appellant was restored to the post of the Head Master.

2 This Court, by order dated 3.5.2002, stayed the Judgment of the School Tribunal, by granting relief to the petitioner and admitted the petition.

3 I have considered the submissions of the learned Advocates.

4 The only issue to be considered is, as to how the *inter-se* seniority in between the petitioner and the original appellant, can be settled.

5 This issue is no longer *res integra*, in view of the Judgment of the Honourable Apex Court in the matter of ***Kumari Bhawana Versus State of Maharashtra*** (2019 SCC on line SC 9). The said law has been followed by this Court vide Judgment dated 18.7.2019 in Writ Petition No.1567/99, in the matter of ***Ambadas Dattatraya Goad versus Smt.Shashikala Arun Choudhari and others***.

6 It would be advantageous to record the admitted factors, as under:-

(a) The original appellant was appointed as an untrained teacher on 1.8.1988 in the concerned school.

(b) The petitioner was appointed as a trained teacher on 11.6.1990 since, he had the qualification of B.Ed. along with M.A.

(c) The original appellant acquired the qualification of B.Ed. on 7.7.1994 and was deemed to be a trained assistant teacher from the date he acquired the prescribed qualification.

(d) An administrator was appointed in the school in 1995 by the Education Department. Pursuant thereto, the Administrator prepared a seniority list and as the petitioner was shown to be higher than the original appellant and being a qualified person, he was appointed as an In-charge Head Master.

(e) The appellant challenged the seniority list dated 28.2.1996, as well as the appointment of the petitioner as the Head Master, by filing an appeal before the School Tribunal u/s 9 of the M.E.P.S. Act.

(f) The petitioner continued as an In-charge Head Master till the School Tribunal delivered the impugned Judgment and he continued, as such, in view of the interim relief granted by this Court . He has retired on 30.4.2014.

7 The Honourable Apex Court has settled the law in **Ku.**

Bhawana (supra) that, the seniority of a person, in so far as his entry in category 'C' under Schedule 'F' of the MEPS Act and MEPS Rules would depend upon the date, on which he acquired the requisite qualification, so as to be termed as a trained Assistant Teacher. The entry in class 'C' under Schedule 'F' as per **Ku. Bhawana** (supra) would depend upon the date of acquiring the qualification of a trained teacher. There is no dispute that, the petitioner was a trained teacher, when he was appointed as an Assistant Teacher on 11.6.1990 and for all purposes, the appellant would be considered to be a trained Teacher from 7.7.1994. He, would, therefore, be junior to the petitioner.

8 In view of the above, the impugned Judgment dated 11.4.2001 delivered by the School Tribunal is quashed and set aside. Appeal No.22/96 stands dismissed. Rule is made absolute.

9 Needless to state, the petitioner would be entitled for all the benefits incidental and consequential to he being a regular Head Master of the school for the entire tenure that he had officiated as the Head Master.

(RAVINDRA V. GHUGE, J)