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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.2068 OF 2014

Mohd. Akbar s/o Mohd. Nawaz
Age 56 years, Occu. Service,
R/o H.No.5-1-265 , Nagar Galli,
Nanded

...PETITIONER

VERSUS

1. The State of Maharashtra
through Secretary,
Education Department,
Mantralaya, Mumbai - 32
2. The Deputy Director of Education,
Latur Division, Latur
3. The Education Officer (Primary),
Zilla Parishad, Nanded.
4. The Managing Committee
Madarse Madinatul Uloom, Nanded,
through its President.
5. Smt. Hafizunnisa Begum Ansari,
Age 57 years, Occu. Service as
Assistant Teacher in Madinatul-Uloom
Primary School (Boys'), Lal Bada,
Nanded

...RESPONDENTS

...
Shri S.V. Warad, Advocate for the petitioner
Shri S.S. Dande, A.G.P. for State
Mrs. Y.M. Kshirsagar, Advocate for Respondent No.3
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**CORAM : SUNIL P. DESHMUKH &
R.G. AVACHAT, JJ.**

DATE : 30th April, 2019.

ORAL JUDGMENT (PER SUNIL P. DESHMUKH, J.):

1. Heard. Rule. Rule made returnable forthwith and heard finally with the consent of learned counsel for the appearing parties.

2. There is no dispute on factual aspect that petitioner had been working as Assistant Teacher since 2.2.1976 with the respondent No. 4. Upon the post of Head Master falling vacant on retirement of the incumbent person on superannuation, on 11-11-2012 a resolution had been passed by managing committee of respondent No. 4, promoting petitioner as Head Master and an order to that effect had been issued on 12-11-2012. A proposal accordingly has been sent on 16-11-2012 by the management to the Education Officer, seeking approval to appointment of the petitioner as Head Master. On 6-3-2013, the Education Officer had granted approval to petitioner's appointment as Incharge Head Master, authorising him to sign monthly pay bills of the staff. However, the things

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were not moving any further, as such, requests ensued seeking permanent approval to the appointment of petitioner as Head Master pursuant to the proposal submitted on 16-11-2012. Since no response was being given, present petition is moved.

3. The petition is pending for more than five years without there being any material dispute and without filing affidavit-in-reply. The contents of the Writ Petition as such, go uncontroverted. It appears that, a communication has been issued to the counsel for Zilla Parishad, dated 26-4-2019, referring to that, approval has been given to petitioner's appointment as Head Master with effect from 1-8-2014 and directing that the concerned shall submit a proposal for pay fixation. The communication is vague and ambiguous. In the circumstances, while there is no dispute that the petitioner is seniormost teacher working on the post of Head Master, the proposal by management has been submitted accordingly appointing the petitioner as Head Master, there does not appear to be any rationale in not giving permanent approval to his appointment with effect from 12-11-2012 and as to why the same is from 1-8-2014.

4. In view of aforesaid, the petition is disposed of with

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the directions that the permanent approval to the appointment of the petitioner as Head Master be granted from 12-11-2012 and/or the approval granted with effect from 1-8-2014 shall relate back to the date of appointment of the petitioner i.e. 12-11-2012 and all the benefits thereon shall ensue accordingly. Rule made absolute in above terms. Writ Petition is disposed of.

(R. G. AVACHAT)
JUDGE

(SUNIL P. DESHMUKH)
JUDGE

fmp/