

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2117 OF 2019

SUBHASH NARAYAN KHARATMOL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Dhakne Vijay A.

AGP for Respondents : Mr. S. G. Karlekar

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CORAM: S. V. GANGAPURWALA &
ANIL S. KILOR, JJ.

DATE: 01st OCTOBER, 2019

PER COURT:

1. Mr. Dhakne, learned counsel for the petitioner submits that the petitioner was appointed as an Assistant Teacher on 23.06.2003. Upon completion of twelve years of his service on 23.06.2015, the petitioner is entitled for time bound promotional pay scale. The Project Officer had forwarded the proposal to the Commissioner. The Commissioner passed an order directing to accord the benefit to the petitioner. The said order is not implemented.

2. The learned counsel for the petitioner submits that the petitioner was never promoted as a full fledged Headmaster. He was directed to be given temporary charge. The earlier Headmaster has also filed the writ petition before this Court. The institution has taken the signatures of the petitioner on blank papers and now are trying to misuse the same. The learned counsel submits that the petitioner cannot be denied the benefit of time bound promotional pay scale. The order of the Commissioner is still intact.

3. Mr. Karlekar, the learned Assistant Government Pleader submits that the petitioner has given letter dated 11.12.2017 and affidavit dated 20.12.2017 denying promotion to the post of Headmaster. If the candidate seeks benefit of time bound promotional pay scale and denies the promotional post, then he is not entitled for the benefit of the time bound promotional pay scale.

4. We have considered the submissions canvassed by the learned counsel for the petitioner and the

learned Assistant Government Pleader for the respondents.

5. It needs no discussion that, if the petitioner is eligible for promotion and the petitioner denies the promotional post, then in that case he cannot claim the benefit of time bound promotional pay scale.

6. The Assistant Project Officer, Integrated Tribal Development Project, Kalamnuri, District - Hingoli has filed affidavit in reply. Along with the affidavit in reply he has filed letter issued by the petitioner dated 11.12.2017, in which the petitioner has categorically accepted that because of the workload and the stress involved he is not in a position to withstand the same, and as such his responsibilities as a Headmaster should be done away with. On 20.12.2017, the affidavit is filed on a stamp paper of Rs. 100/-. The same appears to have been notarised. The stamp paper appears to have been purchased by the petitioner. The signature of the petitioner appears as having

purchased the stamp paper and of having signed before the notary. The contents of the affidavit reads thus -

"महोदय,

उपरोक्त विषयास अनुसरून आपणास विनंती करण्यात येते कि, आपण मला जेष्ठ मा. शिक्षक म्हणून दि. ०९/०९/२०१७ रोजी श्री. सरस्वती माध्यमिक आश्रमशाळा नागेशवाडी ता. औंढा जि. हिंगोली येथील माध्यमिक मुख्याध्यपक पदाचा व दि. १६/९/१७ पासून श्री. शारदा माध्यमिक व उच्च माध्य. आश्रमशाळा ढोलक्याची वाडी येथील माध्यमिक मुख्याध्यापक पदाचा तात्पुरता अतिरिक्त पदभार दिलेला आहे. तसेच मुख्याध्यापक पदावर कायम करणे बाबतचा प्रस्ताव वरिष्ठ कार्यालयास मान्यतेकरिता संस्था सादर करणार आहे. परंतु माझी Suger (मधुमेह) सारखी वाढत आहे. तसेच मला उच्च रक्तदाबाचा (B.P.) सुद्धा त्रास जास्त जाणवत आहे. डॉक्टरांनी मला असा सल्ला दिला आहे की, तुम्हाला तणावरहित जीवन जगावे लागेल. त्यामुळे माझ्याकडे असलेला पदाचा कामाचा व्याप व तनाव पाहता मी हे पद माझ्या तब्येतीमुळे सांभाळू शकत नाही. सदरील पद जर माझ्याकडे राहिले तर त्याचा माझ्या विषयाच्या अध्यापनावर सुद्धा परिणाम होऊ शकतो. त्यामुळे माझ्या तब्येतीकरिता व विद्यार्थ्यांच्या भविष्याकरिता माझ्याकडे असलेला माध्यमिक मुख्याध्यापक पदाचा अतिरिक्त पदभार कमी करण्यात यावा व मुख्याध्यापक पदाचा कायम कारणेबाबतचा प्रस्ताव माझा सादर करण्यात येऊ नये. हि नम्र विनंती.

मी हा मुख्याध्यापक पदावरील माझा हक्क कोणत्याही दबावाला बळी न पडता स्वतःहून सोडत आहे. माझ्याकडील अतिरिक्त पदभार आपण कोणाकडेही दिल्यास माझा काहीही आक्षेप राहणार नाही व मुख्याध्यपक पदावर दावा सुद्धा करणार नाही. तेव्हा मा. अध्यक्ष साहेबांनी माझ्या अर्जाचा सहानुभूतीपूर्वक विचार करून मला परिणामकारक अध्यापन करण्याची संधी द्यावी. हि नम्र विनंती.

मे. साहेबांनी माझ्या अर्जाचा विचार करून मला संधी दिल्यास मी आपला आभारी राहील. "

7. The petitioner has unequivocally stated that he should not be given the responsibilities of the Headmaster and in future also he will not claim the post of Headmaster.

8. According to the learned counsel for the petitioner, the said affidavit is forged one.

9. Forgery has to be established by evidence. *Prima facie*, the signatures are not disputed on the affidavit and the stamp paper.

10. As the petitioner has denied the promotional post, naturally he cannot claim the benefit of time bound promotional pay scale.

11. In the light of above, writ petition stands disposed of. No costs.

[ANIL S. KILOR, J.] [S. V. GANGAPURWALA, J.]

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