

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
1021 WRIT PETITION NO.3560 OF 2003**

DASHRATH KONDIBA SOMASE & ORS. ..PETITIONERS

VERSUS

THE STATE OF MAHARASHTRA & ORS. ..RESPONDENTS

...

Mr. Krushna Rodge h/f Mr. P. G. Rodge, Advocate for the Petitioners.

Mr. P. G. Borade, AGP for Respondents-State.

Mr. S. B. Pulkundwar, Advocate for Respondent Nos.2 and 3.

...

WITH

1021.1 WRIT PETITION NO.4090 OF 2003

BALAJI PANDHARI KAMBLE ..PETITIONER

VERSUS

THE CEO, ZP, NANDED & ORS. ..RESPONDENTS

...

Mr. Krushna Rodge h/f Mr. P. G. Rodge, Advocate for the Petitioner.

Mr. P. G. Borade, AGP for Respondents-State.

Mr. S. B. Pulkundwar, Advocate for Respondent Nos.2 to 3.

...

WITH

1021.2 WRIT PETITION NO.5271 OF 2008

THE CHIEF EXECUTIVE OFFICER, ZP,
NANDED AND ORS. ..PETITIONERS

VERSUS

BALAJI PANDHARI KAMBLE ..RESPONDENT

...

Mr. S. B. Pulkundwar, Advocate for the Petitioners.
Mr. P. G. Borade, AGP for Respondents-State.
Mr. Krushna Rodge h/f Mr. P. G. Rodge, Advocate for Respondent.

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**CORAM : S. V. GANGAPURWALA &
AVINASH G. GHAROTE, JJ.
DATED : 22nd NOVEMBER, 2019.**

PER COURT:-

1. Writ Petition Nos.3560/2003 and 4090/2008 are filed by an employees. Writ Petition No.5271/2008 is filed by the Zilla Parishad, Nanded challenging the order of grievance committee.

2. Writ Petition No.3560/2003 is now limited to the extend of petitioner no.2, as it is dismissed so far as petitioner nos.1 and 3 are concerned in the year 2006. The petitioner in the said writ petition is appointed for the first time on 15.06.1993 with respondent no.4-School. It appears that, the petitioner was declared surplus and order was passed on 04.09.2004 to absorb the petitioner. However, as per the absorption order dated 04.09.2004, the petitioner was not absorbed. The Zilla Parishad School initiated selection process for appointment of Shikshan Sevak. The petitioner participated in the said selection process, he was selected and appointed as Shikshan Sevak of Zilla Parishad School on 24.08.2004. Subsequently, his services were terminated on 16.03.2006. The petitioner approached the grievance committee. The grievance committee allowed the grievance of the petitioner and directed reinstatement on 28.01.2008.

3. The Zilla Parishad has filed Writ Petition No.5271/2008 challenging the order of grievance

committee. This Court granted stay to the back wages, however, did not grant stay to the reinstatement. Eventually, the petitioner is reinstated. Subsequently, order of approval is granted to the petitioner on or about 09.12.2009. Considering the appointment of the petitioner as fresh appointment an approval is granted in the year 2009 as Shikshan Sevak.

4. We have heard Mr. Rodge, learned counsel for the petitioner and Mr. Pulkundwar, learned counsel for Zilla Parishad.

5. There is no dispute with the fact that the petitioner Balaji is appointed as Shikshan Sevak by the Zilla Parishad on 24.08.2004 and the termination order being set aside his services are required to be counted from 24.08.2004. Giving approval to the petitioner as Shikshan Sevak on and from 09.12.2009 is certainly not in consonance with the factual matrix of the present case. Only because after termination the petitioner was reinstated on 09.12.2009 would not mean that the earlier services of the petitioner could not be counted. The petitioner is granted back wages of Rs.1000/- per month meaning thereby that continuity was granted to his services.

6. According to the Zilla Parishad the order of grievance committee was without jurisdiction.

7. The order of reinstatement has already taken effect and the petitioner employee is working

continuously from the date of his reinstatement as a regular employee. In the light of that, we are not inclined to go into the aspects of the jurisdiction of the grievance committee.

8. The petitioner was not working on the post from the date of termination till the reinstatement and the back wages awarded to him was also Rs.1000/- per month. We are not inclined to award back wages to the petitioner. The order of the grievance committee to the extent of back wages is set aside.

9. The petitioner Balaji shall be considered to be in continuous service from the date of his initial appointment that is 24.08.2004 and upon completion of the period of Shikshan Sevak he shall be treated as Assistant Teacher considering the initial date of appointment as 24.08.2004. The period between termination and the reinstatement shall be considered for the purpose of continuity of service and all further benefits. The petitioner is not awarded back wages for the period between termination and reinstatement.

10. For the purpose of pay fixation, the respondents may consider the earlier services rendered by the petitioner. The petitioner may make an application to the Zilla Parishad to that effect which would be considered by the Zilla Parishad on its own merits.

11. It is submitted that criminal case filed against the petitioner is still pending.

12. Pendency of the criminal case would not affect the officiation of the petitioner employee of his services. If some adverse orders are passed in the criminal prosecution filed against the petitioner Balaji, then the parties can take steps accordingly.

13. Rule accordingly partly allowed. No costs.

(AVINASH G. GHAROTE)
JUDGE

(S. V. GANGAPURWALA)
JUDGE