

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.4956 OF 2019
(Sunita d/o Pralhadrao Bhosale Vs. The Secretary and others)
IN WRIT PETITION NO.10722 OF 2018

Mr.V.D.Salunke, Advocate for the applicant.
Mr.S.R.Sapkal h/f Mr.V.D.Sapkal, Advocate for respondent Nos. 1 and 2.
Mr.S.R.Yadav, AGP for respondent Nos. 3 and 4.

(CORAM : Ravindra V.Ghuge, J.)
DATE : 02/05/2019

PER COURT :

1. This application is filed by the applicant, who is respondent No.3 in the petition preferred by the Management, for seeking withdrawal of the back wages, that have been deposited.
2. It is submitted by the applicant that this Court had directed the Management to deposit 50% of the back wages vide order dated 26/09/2018 in the light of the judgment delivered by the Apex Court in the matter of Rajasthan State Road Transport Corporation, Jaipur Vs. Shri Phool Chand (Dead), Through LR's. Though the total back wages would be more than Rs.54,00,000/-, the Management has deposited only Rs.19,00,000/-.
3. It is further submitted that the employment was the only source of income for the applicant teacher and today she is neither

reinstated nor has she received any back wages.

4. Learned Advocate for the petitioner/Management has strenuously opposed the civil application. He submits that the writ petition may be posted for admission hearing or even for a final hearing at admission stage. The petitioner is willing to work out the petition on any date.

5. It is further contended that the applicant has a very weak case and if she is not entitled for reinstatement, recovery of the wages withdrawn by her would be a very difficult task. It is, therefore, submitted that the applicant should not be allowed to withdraw any amount.

6. I find that the applicant/employee was held to have been in service from 1986 till her written termination on 10/11/2010. Her appeal was partly allowed by judgment dated 09/02/2012 by the School Tribunal. The applicant approached this Court by preferring WP No.2274/2012. This Court, partly allowed the petition by order dated 07/05/2012 and by directing the Management to treat the employee as being under suspension eligible for suspension allowance, in the light of Vidya Vikas Mandal and another Vs. Education Officer, 2007(3) Mh.L.J. 801, a *denovo* enquiry was

ordered. Thereafter, she was again terminated by order dated 10/11/2012, which has been set aside by the judgment impugned dated 09/07/2018 by the School Tribunal granting reinstatement with continuity and full back wages.

7. In view of the above and by keeping the issue of calculating the back wages of the employee open, this application is partly allowed. The applicant is permitted to withdraw an amount of Rs.11,00,000/- from this Court by tendering an affidavit undertaking that, in the event she suffers an adverse order in the writ petition, she would repay any amount which is found to be excess, within 8 weeks in this Court.

8. List the writ petition for a hearing on 01/07/2019 after the Urgent Admission board is over. The petition may be taken up for final hearing at admission stage. In the event the petition is not finally heard for any reason whatsoever until June 2020, the applicant/employee would be permitted to renew her request for further withdrawal of the deposited amount.

9. At the request of the learned Advocate for the Management, the ad-interim protection granted earlier would continue.

(Ravindra V.Ghuge, J.)