

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 6419 OF 2019

Udaykumar Vaijnathappa Dhanure .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Sunil V. Warad, Advocate for the Petitioner.

Shri P. G. Borade, A.G.P. for Respondent Nos. 1 and 2.

Shri S. S. Choudhari, Advocate for the Respondent No. 3.

Shri Umakant K. Patil, Advocate for the Respondent No. 4.

**CORAM : S. V. GANGAPURWALA AND
AVINASH G. GHAROTE, JJ.**

DATE : 04TH DECEMBER 2019.

FINAL ORDER :

. Mr. Patil, the learned counsel appearing for the Principal (respondent No. 4) admits that, one post is vacant.

2. The stand of the Government is that, the petitioner was appointed as a part time on clock hour basis and not as a full time teacher. Such arguments at this stage would not be helpful to the Government. Same could have been argument in an appeal filed by the petitioner. The operative part of the judgment passed by the School Tribunal reads thus :

“1. The appeal of the appellant is allowed.

2. The order of oral termination dated 26/7/1994 passed by the respondent No. 2 is hereby quashed and set aside.

3. The respondent No. 1 and 2 are directed to reinstate the appellant on the post of full time teacher in the respondent No. 2. Junior College and pay the salary and allowances as due and payable to him from the date 15/6/1994.

4. The appointment of respondent No. 4 as full time teacher done by respondent No. 3 is hereby cancelled.

5. The respondent No. 3 is directed to accord approval to the appointment of the appellant and release the salary with retrospective effect within reasonable period of three months, failing which it will be recommended to the Government that an equal amount be deducted from the grant due and payable or that would be due and payable in future to the respondent Management and be paid to the appellant directly.

6. Copy of this order should be sent to the Dy. Director, Vocational Education and Training, Aurangabad for information and necessary action.”

3. Said judgment is challenged by the management before this Court by filing Writ Petition No. 498 of 2003. This Court under order dated 06.04.2005 admitted the writ petition, however, specifically rejected the prayer for interim relief, meaning thereby the order of the School Tribunal is in force. The Deputy Director of Vocational Education and Training, Regional Office, Aurangabad is also party before the School Tribunal in an appeal. He is bound by the judicial order passed by the School Tribunal. He cannot sit over orders passed by the School Tribunal.

4. In the light of the above, within a period of six (06) weeks from today, the respondent No. 3/Deputy Director of Vocational

Education and Training, Aurangabad shall implement the order passed by the School Tribunal in force today. More particularly when one post is vacant with the respondent No. 4/College.

5. The further consequences shall follow. The respondent No. 3 has no option, but to grant approval in view of clause 5 of the operative order of the School Tribunal dated 30th April, 1997 in Appeal No. 152 of 1994.

6. With these observations, the writ petition is disposed of. The impugned order rejecting the approval is quashed and set aside. No costs.

[AVINASH G. GHAROTE, J.]

[S. V. GANGAPURWALA, J.]

bsb/Dec. 19