

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

WRIT PETITION NO. 6268 OF 2006

Shri Shashikant Anna Shiral

.. Petitioner

Vs.

The Education Officer (Secondary),

Zilla Parishad, Solapur & Ors.

.. Respondents

Mr. S. G. Kudle for the Petitioner.

Mr. K. S. Thorat, AGP for the Respondent Nos.1 & 3.

Mr. Santosh Jadhawar for Respondent Nos.4 & 5.

Mr. I. M. Khairdi for Respondent No.6.

CORAM : PRADEEP NANDRAJOG, C.J. &

SMT. BHARATI DANGRE, J.

DATE : 4th SEPTEMBER, 2019.

P.C. :

1. Heard learned Counsel for the parties.

2. Case pleaded by the Petitioner is that the 4th Respondent-society has established the 5th Respondent-school and on 08.02.1993 he was appointed as an Assistant Teacher under Respondent No.5-School in the B.Ed. scale. He was granted an increment but all of sudden whereas one Mr. A. S. Chati has junior was continued as an Assistant Teacher in the B.Ed. Scale, he was reduced in the D.Ed. scale. As per the Petitioner once he was appointed in the B.Ed. scale, the question of he being placed in lower D.Ed. scale does not arise. The Petitioner claims that he was compelled to accept the appointment in the D.Ed. scale.

3. Prayer made in the Petition is to direct the School Authorities to pay the Petitioner's salary in the B.Ed. scale w.e.f. 08.02.1993.

4. They innocently drafted the Writ Petition has withheld material facts which have emerged from the reply filed.

5. The reply filed brings out that on account of decrease in the strength of the students, 3 posts of Assistant Teacher in the B.Ed. scale were abolished in the B.Ed. scale on 22.09.1994. The response brings out that the person junior to the Petitioner was a Science Teacher and the Petitioner was not a Science Teacher, therefore, on account of abolition of 3 posts of Assistant Teacher, the Petitioner was liable to be declared surplus and being on probation was liable to have his services dispensed with. However, taking a lenient view because of availability of posts on D.Ed. scale, the Petitioner was offered appointment in the D.Ed. scale. He took the appointment and started creating problems. He refused to work. He filed a civil suit claiming wages. Finding returned wherein is that he had voluntarily not worked. His claim was rejected. The response further brings out that as and when a post in the B.Ed. scale was available, it was offered to the Petitioner but he refused to accept the same pleading that unless he was paid salary in the B.Ed. scale from the inception he would not join duties in the B.Ed. Scale.

6. The facts clearly brings out the obstructive attitude of the Petitioner.

7. The Petitioner overlooks the fact that on account of decrease in

the number of students, 3 posts of Assistant Teacher were abolished. At that time the Petitioner was still on probation. His services were liable to be terminated. He voluntarily accepted the D.Ed. scale. As and when the post of B.Ed. scale was available, it was offered to him but he refused. The grievance of the Petitioner that a person, who was junior to the Petitioner was retained is baseless for the reason that the said person was appointed in the discipline of Science. The Petitioner was appointed in the discipline of Arts. There was reduction of the posts in the discipline of Arts.

8. While dismissing the Petition, we impose costs of ₹ 25,000/- on the Petitioner to be paid to 5th Respondent-School.

[SMT. BHARATI DANGRE, J.]

[CHIEF JUSTICE]