

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

SA NO.12/2019

Khalid Minaj Abdul Salik

..VS..

Zilla Parishad, Yavatmal, thr. its Chief Executive Officer and ors

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders

Court's or Judge's Order

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Shri M.R.Joharapurkar, Counsel for the Appellant.
Shri Nalin Majitha, Counsel for R-1 & 2.

CORAM : V.M.DESHPANDE, J.

DATED : JUNE 24, 2019.

1. The present appeal is at the behest of original plaintiff whose suit for declaration and mandatory injunction is dismissed by learned 2nd Joint Civil Judge Junior Division, Darwaha.
2. Heard learned counsel Shri M.R.Joharapurkar for the appellant/plaintiff and learned counsel Shri Nalin Majitha for respondent Nos.1 and 2.
3. Initially, the suit for declaration and mandatory injunction was dismissed by both Courts below on the ground that the Civil Court has no jurisdiction in view of Rule 14 of the Maharashtra Zilla Parishads District Services (Discipline and Appeal) Rules, 1964. The said decree was challenged before this Court in Second Appeal No.75/2011 and decided on 2.9.2011. This Court found that the Civil Court has jurisdiction and, therefore, remanded the matter back to the Trial Court. After remand, learned Judge of the Trial Court on merits

dismissed the suit.

4. It is submission of learned counsel for the appellant/plaintiff that in view of order passed by Additional Commissioner, Amravati Division Amravati in DB/MDS/1/1991 filed on behalf of the appellant/plaintiff, the appellant/plaintiff ought to have been placed in Pay-Scale of Rs.365-760/-.

5. It is case of the appellant/plaintiff that interview call was given to him for the post of teacher in the Pay-Scale of Rs.365-760/- by the Zilla Parishad and he was selected for the post of teacher on 16.10.1984. However, the appellant/plaintiff was given order of appointment on 17.7.1986 on the post that is Assistant Teacher (Lower Grade) having Pay-Scale of Rs.290-540/-.

6. Reliance is placed on Government Resolution dated 14.5.1987. Fate of the matter hinges on the said Government Resolution. Both the Courts below on plain reading of the said Government Resolution found that directions contained in the said Government Resolution are applicable to the teachers who are appointed by Academic Session 1985-86 and not who are appointed subsequently. Even, learned counsel for the appellant/plaintiff did not quarrel with the said.

7. Admittedly, the appellant/plaintiff was appointed on 17.7.1986.

8. In this view of the matter, the Government Resolution cannot be made applicable and, in my view, both the Courts below rightly not made applicable the said Government Resolution to the appellant/plaintiff.

9. Further, at no point of time, the appellant/plaintiff reserved his right for getting his appointment on the Pay-Scale of

Rs.290-540/- though he was called for the interview for the post having Pay-Scale of Rs.365-760/-.

10. During discussion of the second appeal, it reveals to this Court that the appellant/plaintiff already superannuated on he attaining age of superannuation.

11. Since both the Courts below correctly interpreted Government Resolution dated 14.5.1987, the present second appeal does not involve any substantial question of law. Consequently, the second appeal is dismissed. No costs.

JUDGE

!! BRW !!

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