

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

WRIT PETITION NO. 812/2019

Shri Sanjay Ninan Kamble

..VS..

Divisional Officer, Social Welfare Officer, Amravati & ors.

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

Court's or Judge's orders

Shri S.K. Wankhade, Advocate for the petitioner
Shri S.P. Deshpande, Addl. GP for the respondent nos. 1, 2 and 4

CORAM : Z.A.HAQ, J.
DATED : 12/02/2019

Heard.

The petitioner, who is working in the school administered by the respondent no. 5 – Society as Peon, had filed appeal under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (for short “the Act of 1977”) contending that the respondent no. 6 was appointed by promotion on the post of Junior Clerk illegally, superseding the claim of the petitioner. The petitioner prayed that the appointment of the respondent no. 6 on the post of Junior Clerk be quashed and the management be directed to appoint/promote the petitioner in the post of Junior Clerk. This appeal is dismissed by the Tribunal recording that the subject of challenge will not fall for consideration in appeal under Section 9 of the Act of 1977.

With the assistance of the learned advocate for the petitioner and the learned Addl. GP, I have examined the material placed on record. The copy of the order dated 09/01/2015 which was issued by the Secretary of the respondent no. 5 – Society in favour of the respondent no. 6 shows that he is appointed in the post of Junior Clerk. The finding recorded by the Tribunal that the petitioner has not been able to show that the respondent no. 6 is promoted in the post of Junior Clerk cannot be faulted with. As it is not a case of supersession, the appeal filed by the petitioner under Section 9 of the Act of 1977 could not have been entertained by the Tribunal and it is rightly dismissed as not maintainable.

The Tribunal has recorded that it would be open for the petitioner to challenge the appointment of the respondent no. 6 in appropriate proceedings. The petitioner can take resort to appropriate proceedings to challenge the appointment of the respondent no. 6, if so advised.

With the above observations, the writ petition is **disposed**. In the circumstances, the parties to bear their own costs.

JUDGE

Ansari