

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

WRIT PETITION NO.2857 OF 2019

(BHARAT SHIKSHAN PRASARAK MANDAL & ANR....VS.. ASHWINI KUMAR KRUPACHARYA
WAGHMARE & ANR.)

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

Court's or Judge's orders

Ms Megha Shinde, Advocate for Petitioners.
Shri R.V.Shiralkar, Advocate for Respondent No.1.
Shri Neeraj Patil, A.G.P. for Respondent No.2.

CORAM : Z.A.HAQ, J.

DATED : JULY 02, 2019.

Heard.

The Petitioner-Management has challenged the order passed by the School Tribunal by which the appeal filed by the respondent No.1-employee is allowed, the oral termination order dated 27th June 2011 is quashed and the management is directed to reinstate the respondent No.1/employee and to pay the back-wages from 24th December 2013 i.e. from the date of filing of appeal before the School Tribunal.

The contention of the petitioner-management is that the services of the respondent No.1 were terminated by written order dated 4th April 2011 and not by oral order dated 27th June 2011, as alleged by the respondent No.1-employee. Copy of the termination order dated 4th April 2011 is placed on record of this petition. Admittedly, copy of the alleged termination order dated 4th April 2011 was not placed on record before the School Tribunal. Though copy of the termination order dated 4th April 2011 is placed on record of

this petition, it is not pleaded by the management that the termination order dated 4th April 2011 was served on the respondent No.1-employee. In these facts, the claim of the petitioner-management that the services of the respondent No.1 were terminated by order dated 4th April 2011 cannot be accepted.

Other contention is that the appeal is decided without giving proper opportunity to the petitioner-management to put-forth its case. As per the normal practice adopted by the litigants now-a-days, the blame is on the lawyer that he has not attended the proceedings and has not informed the petitioner-management about the progress of the matter. Again this ground as raised by the petitioner-management cannot be accepted. It is the duty of the party to attend the proceedings and keep a track of the proceedings and be in touch with the lawyer. The parties cannot expect “Home Delivery” by the lawyer.

On examining the material, I find that the respondent No.1-employee was appointed in a permanent and vacant post and after following the prescribed procedure. The Education Officer had granted approval to the appointment of the respondent No.1-employee on probation, by communication dated 10th February 2011. The respondent No.1-employee completed the probation period successfully. The petitioner-management has not placed any material on record to show that the performance of the respondent No.1-employee during probation period was not satisfactory. I find that the Tribunal has adverted to all the relevant aspects. The directions to pay back-wages are also issued judiciously and the back-wages for the period of 2½ years i.e. for the period

of delay in filing the appeal are not granted to the respondent No.1. I see no reason to interfere with the impugned order.

The writ petition is **dismissed**. In the circumstances, the parties to bear their own costs.

JUDGE

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