

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

WRIT PETITION NO.111/2019

Shri Gajanan Bholanath Pund

..Vs..

Punyashlok Ahilyadevi Shikshan Sanstha, Mansar and others

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

Court's or Judge's orders

Shri P.P. Thakre, Advocate for the petitioner.
Shri P.S. Verma, Advocate for respondent No.1.
Shri Kunal Nalamwar, Advocate for respondent No.2.
Ms. Shamsi Haider, A.G.P. for respondent Nos.3 and 4.

CORAM : Z.A. HAQ, J.

DATE : 12.2.2019.

Heard.

The petitioner had filed appeal before the School Tribunal contending that his services were illegally terminated on 4th November, 2016. The management filed its reply before the School Tribunal and opposed the claim of the petitioner. According to the management, the services of petitioner were terminated on 23rd January, 2014. The management had filed an application under Section 9A of the Code of Civil Procedure praying that the appeal filed by the petitioner be dismissed as it is filed after the prescribed period of limitation and the petitioner had not filed any application praying for condonation of delay. By the impugned order, the Tribunal has allowed the application filed by the management under Section 9A of

the Code of Civil Procedure and has dismissed the appeal.

The contention of the petitioner is that even if the Tribunal found that the services were terminated on 23rd January 2014, the appeal should not have been dismissed as barred by limitation and the Tribunal should have granted an opportunity to the petitioner to file application pointing out the circumstances because of which delay occasioned. To support this submission, reliance is placed on the following judgments:

“1. *Judgment given in the case of State of M.P. and another V/s. Pradeep Kumar and another reported in (2000) 7 SCC 372 and*

2. *Judgment given in the case of Madhao S/o Somaji Sarode V/s. Jotiba Dhyan Upasak Shikshan Sanstha, Dudhala and others reported in 2004(3) Mh.L.J.1078.”*

The proposition laid down in the above referred judgments is well settled. If the Court or Tribunal finds that the claim is made after prescribed period of limitation, an opportunity should be given to the claimant to explain the delay. However, in the facts of the present case, the petitioner pleaded a false case before the Tribunal. The learned Advocate for the management has pointed out that after the services of petitioner were terminated on 23rd January 2014, the petitioner had withdrawn the amount of general provident fund also. The submission on behalf of the petitioner is that the amount was withdrawn with an

understanding that the petitioner would redeposit it if he is reinstated. The facts on record clearly show that even according to the petitioner his services were terminated on 23rd January, 2014. Hence it cannot be said that the Tribunal has committed any error by dismissing the appeal filed by the petitioner. The judgments referred by Advocate for the petitioner do not assist him.

I see no reason to interfere with the impugned order. The writ petition is **dismissed**. No costs.

JUDGE

Tambaskar.