

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

WRIT PETITION NO.8/2019

Maharashtra Gramhit Shikshan Sanstha, Nagpur and another
 ..Vs..

Mrs. Sudha Narayan Wanjari and another

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

Court's or Judge's orders

 Shri N.N. Thengre, Advocate for the petitioners.
 Shri A.Z. Jibhkate, Advocate for respondent No.1.
 Ms. Shamsi Haider, A.G.P. for respondent No.2.

CORAM : Z.A. HAQ, J.

DATE : 7.1.2019.

Heard.

By this petition, the Management (employer) has challenged the order passed by the School Tribunal by which the appeal filed by the respondent No.1 / employee is allowed, termination order is set aside and the management is directed to notionally reinstate the employee in service from the date of termination order till she attained the age of superannuation, and has also granted the benefit of continuity of service and back-wages. Various submissions are made by the learned Advocate for the petitioners as also the learned Advocate for the respondent No.1.

After examining the matter, I find that one of the ground which appealed to the Tribunal is that the services of respondent No.1 / employee were terminated by order dated 9th July, 2010 with retrospective effect from 16th November, 2009. The submission on behalf of

the petitioners is that the Tribunal has committed an error by interfering with the findings recorded by the enquiry committee on the charges levelled against the respondent No.1 / employee. To support the submission, the Advocate for the petitioner has relied on the following judgments:

(i) *Judgment given in the case of Ratan Gaba Teli V/s. State of Maharashtra & Ors. reported in **2010(5) ALL MR 64**,*

(ii) *Judgment given in the case of Sanchalakshri and another V/s. Vijaykumar Raghuvirprasad Mehta and another reported in **(1998) 8 SCC 245**,*

(iii) *Judgment given in the case of Apparel Export Promotion Council V/s. A.K. Chopra reported in **AIR 1999 SC 625**,*

(iv) *Judgment given in the case of High Court of Judicature at Bombay through its Registrar V/s. Shashikant S. Patil and another reported in **(2000) 1 SCC 416**,*

(v) *Judgment given in the case of Union of India V/s. Y.S. Sandhu, Ex-Inspector reported in **AIR 2009 SC 161**,*

(vi) *Judgment given in the case of Madhukar S/o Laxman Sahare V/s. Presiding Officer, School Tribunal, Nagpur and others reported in **(2000) 1 SCC 416** and*

(vii) *Judgment given in the case of Union of India V/s. Ram Bahor Yadav*

reported in AIR 2010 SC 2735.

Even if this submission made on behalf of the petitioners is considered, fact remains that the enquiry committee had not recommended that services of the respondent No.1 / employee be terminated with retrospective effect. The petitioners have not been able to point out that the order termination of the services of respondent No.1 / employee with retrospective effect is permissible in law.

The Advocate for the respondent No.1 / employee, relying on the judgment given by this Court in the case of *Shah Babu Education Society, Patur and another V/s. Presiding Officer, School Tribunal Amravati and Aurangabad Division, Aurangabad and another* reported in **2006(6) Mh.L.J. 547** has submitted that the respondent No.1 / employee has attained the age of superannuation in November, 2009 and there cannot be further enquiry against her after her superannuation.

As I find that the order terminating the services of the respondent No.1 / employee with retrospective effect is unsustainable in law, the other issues raised on behalf of the petitioners are not examined. For the same reasons, the judgments relied upon on behalf of the petitioners are not referred to. 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.

The Advocate for the respondent No.1 /

employee has made a grievance that because of pendency of the writ petition the Headmaster of the school and the management have not sent papers of the respondent No.1 / employee to the department to finalize the pension case, the petitioners are directed to send all the concerned papers within two months and the Education Officer shall take decision in the matter within one month from the date of receipt of the papers.

JUDGE

Tambaskar.