

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

33 WRIT PETITION NO.2391 OF 2020

JAI TULJABHAWANI SHIKSHAN PRASARAK MANDAL LTD EKDARA
THROUGH PRESIDENT AND OTHERS

VERSUS

SIDDHESHWAR ABHIMAN SHIRKE AND ANOTHER

...
Advocate for Petitioners : Mr. Salunke Sudarshan J.

AGP for Respondents:Mr. A.S. Shinde

...
CORAM: ROHIT BABAN DEO, J.

Date: FEBRUARY 10th, 2020

...

PER COURT :-

1 The Presiding Officer, School Tribunal, Aurangabad Region, Aurangabad by order dated 17.1.2019, was pleased to allow the application for condonation of delay in preferring the appeal under section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (MEPS Act) preferred by respondent No.1 herein.

2 The Tribunal, by a well reasoned order, condoned the delay in preferring the appeal subject to costs.

3 The respondent No.1 employee contended that, when he resumed duties after Diwali vacation on 6.11.2017, he was informed that his services stood terminated w.e.f. 30.8.2016. Respondent No.1 submitted an application on 9.11.2017 to the

Education Officer (Secondary), Zilha Parishad, Beed seeking a direction to the management to allow him to join duty. Respondent No.1 did not receive expected response and therefore on 5.1.2018, he approached the Tribunal.

4 The Tribunal considered the issues thus:-

"5) *The appellant has filed on record the copy of seniority list, which shows that the name of the applicant is shown at Serial Number 26, therein it is mentioned that the applicant was appointed with effect from 23rd January, 2013. It is alleged by the applicant that, he continuously signed the muster roll till 30th August, 2016. Though the Head Master stopped the appellant from signing the muster roll, but he performed the duty up-to Diwali vacation 2017. After Diwali vacation, on the opening day of the school that is 6th November, 2017, the appellant had been to the school for joining the duty, at that time, the management informed him that his services were terminated with effect from 30th August 2016. The appellant immediately on 9th November 2017 submitted an application to the Education Officer (Secondary), Zilla Parishad, Beed and prayed for directing the management to allow the applicant to join the duty as usual. But the efforts of the applicant goes in vain, therefore, on 5th January 2018 the applicant approached this Tribunal and filed this appeal. The record shows that the services of the appellant terminated by giving retrospective effect from 30th August 2016. From the date of knowledge of the termination, the appellant approached to this Tribunal within reasonable time. Therefore, in my opinion, the delay caused in filing appeal is neither deliberate nor intentional.*

"

5 The petitioner is relying on the decision of learned single Judge in **Sayed Salam Gafoor Pirjade and others versus Shaikh Gulab Nabee Hussein and others** (2011 (3) Mh.L.J.174) and in particular the observations in para No.10.

The observations are recorded in the factual matrix.

6 I do not see any error in the Judgment impugned.

7 The petition is dismissed.

8 The School Tribunal is requested to decide the appeal as expeditiously as possible and in any event within 12 months.

9 The Registry shall bring this order to the notice of the School Tribunal.

(ROHIT BABAN DEO, J)

vbd