

IN THE HIGH COURT OF BOMBAY AT GOA
CIVIL APPLICATION(REVIEW) NO.17 OF 2019.

Anil Govind Naik

..... Applicant.

Vs

The Director of Education,
Govt. of Goa and 3 ors.

..... Respondents.

Petitioner present in person.

Shri V. Sardesai, Addl. Govt. Advocate for the respondent no.1.

Shri A. Bhobe and Ms. Annelise Fernandes, Advocates for the
respondent nos.2 and 3.

Shri R. Rao, Advocate for the respondent no.5.

Coram:- DAMA SESHADRI NAIDU, J.

Date:- 22nd January 2020

P.C.

Review petitioner Anil Govind Naik is the unsuccessful petitioner in Writ Petition No.1140/2017. He is a Grade-I teacher. He joined the service as such on 5.6.1989. Anil claims that on the same day, the fourth respondent, too, joined the service. At any rate, he admits that she was working by the time he had joined the service, but her appointment in the previous year could not be treated as regular. For this, he argues that she lacked the qualification. Therefore, Anil has contended that he should be treated as the senior of the two.

2. In the judgment now sought to be reviewed, this Court has formulated following questions for adjudication:

- (i) Whether there is delay and laches on the part of the petitioner

in challenging the seniority on the ground based on circular dated 6/4/1990 and the letter from the Director dated 8.3.1990?

- (ii) Whether the appointment/ service of the respondent no.4 can be considered as ad hoc appointment/service on account of the fact that the respondent no.4 is holding a post graduate degree i.e. MSc (Microbiology) and was thus not qualified to be appointed as teacher (Grade-I) in Biology? Consequentially whether the service rendered by the respondent no.4 cannot be counted to reckon her seniority over the petitioner?
- (iii) Whether the availment of the extraordinary leave by the respondent no.4 can have the effect of loss of seniority. Incidentally whether the seniority can be treated as the 'service benefit', within the meaning of Rule 2(i) of the 2002 Rules?

3. And the Court answered all those questions, through its judgment dated 15.10.2018, against the petitioner. Aggrieved, Anil has approached the Supreme Court in Special Leave Petition No.3412/2019, but could not succeed. In fact, through its order, dated 18.2.2019, the Supreme Court dismissed the Special Leave Petition at the admission stage.

4. Thereafter, Anil has filed this review petition.

5. Arguing the case *pro se*, Anil has taken me through the material parts of the judgment under review and has stressed that this Court had erred both on question nos.1 and 2. To support his contentions, Anil has taken me, again, through various statutory provisions, besides relying on *Ranjit Kumar Meher v. State of Orissa*¹ and *Nagaland Public Service Commission v. State of Nagaland and others*², both rendered by the

¹ (2017)4 SCC 568

² (2017)13 SCC 498

Supreme Court.

6. On the other hand, the learned counsel for the respondents have contended that the judgment has been well reasoned. According to them, even the Supreme Court has refused to interfere. They have also submitted that Anil has been trying to re-agitate the issue on the merits, which is impermissible.

7. Heard Anil Govind Naik, the review petitioner, *pro se*; Shri V. Sardessai, the learned Addl. Govt. Advocate for the respondent no.1; Shri A. D. Bhole, the learned counsel for the respondent nos.2 and 3; and Shri R. Rao, the learned counsel for the respondent no.4.

8. Indeed, Anil Govind Naik is candid enough to admit that his grievance is on the merits of the matter. According to him, this Court has erred in deciding that the fourth respondent should be treated as senior to him. He has also submitted that even going by the statutory parameters, the Court should have declared him to be senior.

9. In *Ranjit Kumar Meher* and also in *Nagaland Public Service Commission*, the Supreme Court has held that *ad hoc* service should be viewed in the context of the statutory frame, to reckon whether that should be added to the length of service. I am afraid the review petitioner cannot re-agitate the issue on the merits under the guise of review petition, which is reserved for correcting the errors apparent on the face of the record and other such technicalities.

Under these circumstances, I am unable to interfere with the judgment under review. So I dismiss the review petition. No order on costs.

DAMA SESHADRI NAIDU, J.

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