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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (St.) No. 11871 OF 2019

Sanjay Rabhaji Gangurde ... Petitioner
Vs.
The State of Maharashtra & Ors. ... Respondents

Mr. S. A. Sawant a/w S. M. Suryawanshi, for the Petitioner.

Ms. M. S. Bane, AGP for Respondent No. 1.

Mr. S. P. Thorat a/w G. B. Walawalkar, for Respondent Nos. 3 and 4.

CORAM : C. V. BHADANG, J.

DATE : FEBRUARY 25, 2020

PC :

1. This petition can be disposed of on a short count. The Petitioner was appointed as a para-teacher with Vasti School at Kamdipada, taluka Shahapur, district Thane. He worked as such from the year 2001 to 2009. According to the Petitioner, he is entitled to the benefit and protection of Government Resolution dated 31st July, 2009 (for short "GR"). In terms of the said GR on conversion of the Vasti school into a primary school, the Petitioner was entitled to be absorbed as para teacher. It appears that the Petitioner had applied to the Chief Executive Officer, Zilla Parishad, Thane (for short "CEO") for extension of the benefit of the said GR. The CEO by his communication dated 8th March, 2019 has refused to grant benefit of

the said GR on the ground that the Petitioner had allegedly tendered his resignation on 2nd May, 2009, expressing his inability to work on account of his physical condition, as he was suffering from spondylitis. It is this communication, which is subject matter of challenge in this petition.

2. I have heard the learned counsel for the parties. Perused record.

3. The learned counsel for the Petitioner has placed reliance on several decisions of this Court, including decision of the Division Bench of this Court at Aurangabad in a batch of petitions, being Writ Petition No. 2254 of 2010 (***Mathali Kakade Vs. The State of Maharashtra & Ors.***) and others, decided on 13th October, 2010, and the subsequent decisions in Writ Petition No. 13100 of 2017 (***Laxman Ahadi Vs. State of Maharashtra & Ors.***) at the Principal Seat of this Court, decided on 3rd July, 2019 and others. It is submitted that in similar circumstances, where the benefit of the GR was refused to be extended on the ground of voluntary abandonment of service and / or resignation, this Court had granted the benefit of the said GR. It is pointed out that the Petitioner has completed two years of service, and therefore, he was entitled to the benefit of the said GR.

4. Mr. Thorat, the learned counsel for Respondent Nos. 3

and 4, has contended that there is voluntary resignation given by the Petitioner, expressing his inability to work as he was suffering from vertigo on account of spondylitis and thus, the Petitioner cannot claim benefit of the said GR.

5. I have carefully considered the rival circumstances and the submissions made. There are several decisions of this Court, as pointed out above, in which even in the face of a claim by the Zilla Parishad about voluntary abandonment of service, and / or the concerned para teacher having tendered resignation, this Court had granted the relief and the benefit of the said GR. It is not necessary to multiply authorities on the point. However, in the case of ***Sadhana Patil Vs. The State of Maharashtra***, in ***Writ Petition No. 1365 of 2018, decided on 14th March, 2019***, there was a similar contention raised about the petitioner having tendered resignation and / or having voluntarily abandoned his service. This Court taking note of the earlier decision in Writ Petition No. 7735 of 2018 (***Sitaram Wangad Vs. The State of Maharashtra & Anr.***) decided on 3rd October, 2018 had refused to accept the said contention raised on behalf of the respondent Zilla Parishad. I am respectfully bound by the decisions rendered by this Court in similar circumstances, and there is no reason to take a different view. It is not in dispute that the Petitioner is having required

qualification, viz. B. A., B. Ed. for appointment as teacher.

. In the result, following order is passed.

ORDER

- (i) The petition is allowed.
- (ii) The impugned order / communication dated 8th March, 2019 is hereby set aside.
- (iii) The Petitioner shall be appointed as a teacher in consonance with his qualification, and in accordance with the applicable provisions within a period of eight weeks from today.
- (iv) In the circumstances, there shall be no order as to costs.

Vinayak
P.
Halemath

Digitally signed
by Vinayak P.
Halemath
Date: 2020.02.29
19:26:31 +0530

Sd/-
C. V. BHADANG, J.