

Ingale

Urmila
P.
Ingale
Digitally
signed by
Urmila P.
Ingale
Date:
2021.02.17
20:19:39
+0530

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 9237 OF 2019

SHRI JAYAWANT GULABRAO NIMBALAKAR ..PETITIONER
VS.

SHRI CHATRAPATI SHIKSHAN SANSTHA
THROUGH SECRETARY & ORS. ..RESPONDENTS

Mr.Sugandh Deshmukh, for Petitioner.
Mr.Abhijit P. Kulkarni, for Respondents No. 1 & 2.
Mr.S.D.Rayrikar, AGP for Respondent - State.

CORAM : M.S.KARNIK, J.

DATE : FEBRUARY 17, 2021

P.C.:-

Heard learned Counsel for the Petitioner, learned AGP for Respondent No.3 and learned Counsel for Respondents No. 1& 2.

2. It is the case of the Petitioner that he was appointed as a Junior Clerk on 09/06/1997. Thereafter the Petitioner was appointed a Shikshan Sevak in the year 2008. The Petitioner was terminated sometime in the year 2011. The termination of his services was challenged by the Petitioner before the School

Tribunal. The School Tribunal dismissed the Appeal.

3. On the last occasion, I had indicated to learned Counsel that as the Petitioner was substantively appointed as Junior Clerk and had worked almost for a period of 11 years, upon his termination as Shikshan Sevak, he should have been then reverted back to the post of Junior Clerk which he was substantively holding. There is some controversy whether the Petitioner is promoted as Shikshan Sevak or same was a regular appointment. Be that as it may, Respondents No. 1 & 2 have fairly submitted that there is one post of Junior Clerk falling vacant on 31/05/2021 on the retirement of present incumbent Suresh Ramchandra Taware. Learned Counsel for the Petitioner says that he will forego his claim for the post of Shikshan Sevak and not claim backwages. The Petitioner is ready to work as Junior Clerk with effect from 01/06/2021 after the post of Junior Clerk falls vacant.

4. In this view of the matter, the order passed by the Tribunal is modified. The Petitioner now be reinstated as Junior Clerk with effect from 01/06/2021 in view of the understanding arrived at between the Petitioner and Respondents No. 1 & 2. The Petitioner will be entitled for salary and other benefits with

effect from 01/06/2021.

5. Learned Counsel for Respondents No. 1 & 2 submitted that the salary grant proposal made to the Respondent No.3 may be considered. Learned AGP says that the post where the Petitioner is to be reinstated is not eligible for grant-in-aid. These are the issues to be considered by the Education Officer when the proposal is submitted. The contention as to whether Petitioner's post is entitled to salary grant is kept open to be considered by the Education Officer. The Petition is partly allowed in the above terms.

6. It is open for the Management to submit a proposal to the Education Officer. So far as claim for continuity of service and salary grant from 01/06/2021 is concerned, the same shall be considered on its own merits and in accordance with law. The Petitioner is personally present in the Court and agrees for reinstatement as Junior Clerk with effect from 01/06/2021 and that he would forego the claim as Shikshan Sevak & backwages.

7. Writ Petition is disposed of in the above terms.

(M.S.KARNIK, J.)