

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

WRIT PETITION NO.952 OF 2011

1] Shri. Mahavir Shikshan Prasarak Samittee,
 Wani, through its President,
 Natraj Chowk, Nandepera Road,
 Wani, Tahsil-Wani, District-Yeotmal.

2] Shri. Mahavir Shikshan Prasarak Samittee,
 Wani, through its Secretary, Natraj Chowk,
 Wani, Tahsil-Wani, District-Yeotmal

Petitioners

..Versus ..

1] Pandurang Krushnaji Tonge,
 Aged 59 years, Occu : Retired,
 R/o. Talav Road, Wani,
 Tah. Wani, Dist. Wani.

2] The Head Master,
 Shri. Mahavir High School,
 Majri (Collery), Majari,
 Tal. Bhadravati, Dist. Chandrapur.

3] The Education Officer (Secondary),
 Zilla Parishad, Chandrapur,
 Tah. & Distt. Chandrapur.

4] Uttam Harisingh Chauhan,
 Aged 65 years, Nandepera Rd,
 Wani, Tah. Wani,
 Dist. Yeotmal.

Respondents

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Shri B.G. Kulkarni, Advocate for the petitioners,
 Ms T.H. Khan, AGP for respondent no.3-State,
 None for respondent nos.1, 2 and 4 though served.

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CORAM : N.B. SURYAWANSHI, J.
DATED : 09.08.2021.

JUDGMENT

1. By this petition filed under Articles 226 and 227 of the Constitution of India, the petitioners challenge the judgment of the School Tribunal, Chandrapur in Appeal No. STC 02/2009 dated 13.10.2010, by which the termination of the respondent no.1 (appellant in the appeal) was set aside and in view of his retirement, in the meanwhile, direction was issued to pay him consequential monetary benefits/pensionary benefits.

2. During the pendency of the appeal before the School Tribunal, the petitioners, by filing written statement, submitted that the order of termination was passed by the respondent no.4 alone and, therefore the petitioners are not responsible for the back-wages. The petitioners further submit that they were ready to reinstate the respondent no.1 in service during the pendency of appeal before the School Tribunal. The petitioners do not dispute that the impugned termination order dated 28.1.2009 was illegal and bad in law. In this view of the matter, I do not find any substance in the challenge raised by the

petitioners in the present petition. No case is made out by the petitioners to interfere in the order of the School Tribunal thereby setting aside the termination of the respondent no.1 and directing to pay him all the consequential monetary/pensionary benefits.

3. The learned Advocate for the petitioners submits that pursuant to the order passed by the School Tribunal, all the pensionary benefits are already released in favour of the respondent no.1. Now the controversy remains only to the extent of payment of salary for the period from 1.2.2009 to 15.4.2010. The learned Advocate, by relying on the decision in Writ Petition No.6274/2015 (Kohali Rural Education Society and one .vs. The State of Maharashtra and others), submits that since during that period there was no other teacher working on the post on which the respondent no.1 was working, the Education Officer is responsible for payment of salary of the respondent no.1 for that period.

4. Be that as it may, the petitioners may forward bills of salary of the respondent no.1 for the period between 1.2.2009 to 15.4.2010 to the respondent no.3 – Education Officer, within

a period of four weeks from today. After receipt of the same, the respondent no.3 - Education Officer may take decision on the same, within a period of four weeks thereafter. The writ petition is therefore disposed of with above directions. No costs.

(N.B. Suryawanshi, J.)