

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12571 OF 2015

BUDHA RAMAJI GAIKWAD
VERSUS
STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. S.A. Deshpande
AGP for Respondents: Mr. S.N. Kendre
Advocate for Respondents No. 2 to 5 : Dr.R.J. Godbole

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 17th AUGUST, 2022

ORDER :

1. The petitioner has filed the present petition challenging the decision of the School Tribunal, Solapur, in Appeal No. 173/2005, thereby confirming the order of termination of the petitioner passed by the management.

2. During the pendency of the petition, the petitioner as suffered three heart attacks and was in dire need of financial assistance. He approached the management and requested to compromise the matter. The management by taking into consideration his ill health, has compromised the matter and reinstated him in service on 01.03.2021. The petitioner thereafter retired on superannuation on 30.06.2021.

3. The compromise terms duly signed by the management and the petitioner are placed on record. The parties are identified by their respective advocates. The compromise terms are marked 'X' for identification purposes.

4. As per the compromise terms the petitioner has waived all the backwages and other benefits from the management as well as from the Government. He is now only claiming continuity in service with pensionary benefits, which the management has agreed to.

5. The Education Officer by filing affidavit has opposed the compromise contending that the termination of the petitioner is upheld by the School Tribunal.

6. Perusal of chargesheet served on the petitioner indicates that there were no serious charges against the petitioner. The charges levelled against the petitioner were that the petitioner failed to perform the duty in accordance with Rule 14(1) and (2) of the MEPS Rules, the petitioner obtained unauthorized leave, the petitioner failed to attend 30 school working hours in a week, the petitioner remained absent on

national and state holidays, the petitioner participated in union activities in violation of Rule 22 (2) (C), the petitioner violated Rule 24(1) of the MEPS Rules by making grievance directly to the higher authorities. 39 charges were leveled against the petitioner claiming violation of Rule 28.

7. Taking into consideration the nature of charges levelled against the petitioner and particularly the fact that the petitioner has suffered three heart attacks and the management has compromised the matter with the petitioner, in the facts of the present case the claim of the petitioner that he may be given continuity in service and pensionary benefits appears to be reasonable. Since, the petitioner has already waived backwages, there will be no financial burden on the State.

8. Record indicates that the petitioner was out of service since 16.08.2005. As has been noted above, he was allowed to resume duty on 01.03.2021 and stood retired on 30.06.2021. In these peculiar facts, the compromise is accepted. The impugned order of the School Tribunal is modified to the effect that the petitioner shall be entitled to continuity in service and pensionary benefits, which shall be given to the petitioner

within a period of eight weeks from receipt of this order. With these directions, writ petition is disposed of.

[NITIN B. SURYAWANSHI, J.]