

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

922 CIVIL APPLICATION NO.3324 OF 2022

IN

WRIT PETITION NO.5981/2007

WITH

WRIT PETITION NO.5981/2007

IFFAT PARVEEN MOHADDED QUYAMMUDIN SIDDIQUI
VERSUS
THE PEOPLES EDUCATION SOCIETY THROUGH ITS CHAIRMAN AND
OTHERS

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Advocate for Applicant : Mr. A. G. Indrale Patil h/for Mr. L. C. Patil

AGP for Respondents State: Mrs. V. S. Chaudhari

Advocate for Respondents 1 & 2 : Mr. A. B. Tele

CORAM : RAVINDRA V. GHUGE, J.

DATE : 11th March, 2022

ORDER:

1. The petitioner employee has put forth prayer clauses (B) and (C) in the civil application, which read as under:-

"(B) That, the respondents, particularly, the respondent Nos. 1 and 2 be directed to forward proposal of petitioner for provisional pension to the respondent No.3 Education Officer forthwith and the Education Officer further directed to grant provisional pension to the petitioner till final disposal of Writ Petition No. 5981 of 2007 and for that purpose necessary directions be issued.

(C) Pending admission hearing and final disposal of this civil application, the respondent Nos. 1 and 2 be directed to forward proposal of petitioner for provisional pension to the respondent No.3 Education Officer forthwith and the Education Officer further directed to grant provisional pension to the petitioner

and the Writ Petition No. 5981 of 2007 be heard on merit and for that purpose necessary directions be issued."

2. The learned Advocate representing the management submits that as the petition is pending, the Management is unable to forward the proposal.

3. By consent of the parties, the writ petition itself is taken up for final hearing since it is pending for the last 15 years.

4. The order passed by this Court on 15.01.2008 reads as under:

"1. Rule.

2. Learned Counsel appearing for respondent nos.1 and 2 waives service on behalf of the said respondents and the learned Assistant Government Pleader waives service on behalf of respondent nos.3 and 4.

3. From the perusal of Schedule "B" of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981, it is clear that the qualifications necessary for being appointed as a trained Teacher in Secondary Schools for Graduate Teachers is a Bachelor's degree in Teaching or Education of any statutory University or a qualification Recognised by Government as equivalent thereto. It is not in dispute that the present petitioner is possessing Bachelor's Degree in Education i.e. B.Ed. from Dr. Babasaheb Ambedkar Marathwada University, Aurangabad. The only ground on which appeal is dismissed is that the petitioner who possesses degree of Bachelor of Science i.e. B.Sc. (Home Science),

cannot be said to be qualified. No material is pointed out from the record by the learned Counsel for the petitioner to show that a person who is possessing degree of B.Sc.(Home Science) and also possesses degree of B.Ed. is not qualified to be appointed as a Teacher. It is further to be noted that right from the date of termination which was subsequent to the withdrawal of approval by the Education Officer, the petitioner is continuously serving with the respondent nos.1 and 2 till 5th September 2007. It is only on 5th September 2007 i.e. after dismissal of the appeal filed by the present petitioner, services of the petitioner have been terminated.

4. I find that the petitioner has made out an exceptional case for grant of interim relief in the nature of mandatory injunction.

5. Hence, ad interim relief in terms of prayer clause "D".

6. It is directed that the petitioner shall be continued in service as was continued prior to 5th September 2007. It is needless to state that the same shall be subject to the result of the present petition.

7. It is further made clear that the respondent nos.1 and 2 shall also submit a proposal for pay and allowances of the petitioner to the respondent no.3 which shall be granted by the respondent no.3 in accordance with the provisions of relevant rules.

5. It is thus clear that the petitioner was qualified to be appointed as an Assistant Teacher in the Secondary school in the category of Graduate Teachers. B.Ed. is the qualification prescribed below

Schedule B-ii(1)(i) under the Maharashtra Employees of Private Schools (Conditions of Service) Rules 1981. This aspect was completely lost sight of by the School Tribunal. Moreover, from 1995 till 2020, the petitioner has been working and has rendered blot-less service.

6. The learned Advocate for the Management has strenuously opposed this petition. He relied upon the written statement filed before the School Tribunal and contends that the Management had never disallowed the petitioner from working or signing the muster roll. It was only because respondent No.3 Education Officer cancelled the approval to the appointment of the petitioner vide letter dated 21.04.1998, that her services were terminated.

7. Having considered the record before the Court and the legal position, the School Tribunal has misdirected itself while deciding Appeal No.96/2006 (Old No. Appeal No. 126/1998).

8. As such, this petition is allowed. The impugned judgment and order dated 13.07.2007 delivered by the School Tribunal, Latur is quashed and set aside. Appeal No.96 of 2006 (Old Appeal No. 126/1998) is allowed and the termination of the petitioner dated 29.04.10098 stands quashed and set aside.

9. On the aspect of back wages, the learned Advocate for the petitioner prayed for 100% back wages. The learned Advocate for the Management submits that the Management was never at fault. The

Education Officer cancelled the approval and hence, the Management had no option, but to terminate the petitioner on 29.04.1998. On 23.09.1999, after around 17 months, the Tribunal stayed the termination and the petitioner continued in employment after joining on 21.10.1999. Since her appeal was dismissed on 13.07.2007, she was terminated on 05.09.2007. Under order of this Court dated 15.01.2008, she was reinstated in service on 24.01.2008. The duration of her unemployment is around 21 months.

10. I do not find that the petitioner has preferred an affidavit before the School Tribunal to indicate that she was not gainfully employed between 30.04.1998 and 20.10.1999 or from 05.09.2007 till 23.01.2008. Hence, she would not be entitled for back wages.

11. The petitioner would be entitled continuity in service with all consequential benefits, save and except the back wages. The petitioner's service would be reckoned with from the date of her joining in 1995 till her superannuation on 30.06.2020.

12. Needless to state, the Management shall now forward the pension papers of the petitioner on the basis of her last drawn salary, on or before 05.04.2022 to the competent authority which shall ensure that the proposal is cleared and the payment of pension is granted on or before 30th July, 2022.

13. It goes without saying that the arrears of pension would be paid to the petitioner prior to August, 2022 and the payment of regular pension shall accordingly commence.

14. Since the above order has been passed, the civil application stands disposed off.

15. Rule is made absolute in the above terms.

(RAVINDRA V. GHUGE, J.)

JPC