

Dusane

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

WRIT PETITION NO.6563 OF 2016

Mr. Shashikant Appa Gawas ...Petitioner

V/s.

Bal Shikshan Mandir Trust & Ors. ...Respondents

Mr. Tejesh Dande i/by Tejesh Dande & Associates for
Petitioner.

Mr. Shaikh Nasir Masin for Respondent nos. 1 to 5.

Smt. Indrani M. Gowada for Respondent no. 3.

Mrs. V.S. Nimbalkar, AGP for State/ Respondent no.
6.

Mr. Shashikant Appa Gawas, Petitioner-in-person.

CORAM: MADHAV J. JAMDAR, J.

DATE: 13th OCTOBER, 2022

P.C.:

1. Heard Mr. Tejes Dande, learned advocate appearing for
Petitioner, Mr. Shaikh, learned advocate appearing for
Respondent nos. 1 to 5 and Mrs. Nimbalkar, learned AGP for
Respondent no. 6.

2. This matter was heard on number of occasions including
on 3rd October 2022, 6th October 2022, 7th October 2022, 11th
October 2022 and 12th October 2022.

3. In the present writ petition, the Petitioner has challenged order dated 7th October 2015 passed by learned Presiding Officer, School Tribunal, Mumbai in Appeal No. 26 of 2012. By the impugned order, the said appeal was dismissed. In said appeal filed under Section 9(1)(a) of the Maharashtra Employees of Private Schools (Conditions of Services), Regulation Act, 1977, the Petitioner has challenged order of termination dated 4th September 2012 issued by Respondent no.1 terminating the services of the Petitioner as Assistant Teacher in Respondent no.4-Day Section School and Respondent no.5 -Night Section School.

4. The Petitioner and Respondent nos.1 to 5 have amicably resolved the dispute and tender consent terms dated 13th October 2022. The said consent terms are signed by the Petitioner and Respondent nos. 1 to 5.

5. By resolution dated 5th October 2022, Respondent no. 1 Bal Shikshan Mandir Trust i.e. the management has authorised Respondent no.3 to execute the consent terms to be filed in this writ petition.

6. The Petitioner as well as Respondent no.3 -Smt. Indrani M. Gowda, Chief Executive Officer of Respondent no. 1 are present in the Court. Both of them state that the consent terms are agreeable to both of them and they have signed the consent terms after reading and understanding the contents therein.

7. Mrs. Nimbalkar, learned AGP appearing for Respondent no.6 states that Respondent no.6 is not a party to the consent terms and has not signed the consent terms and therefore the consent terms will not be binding upon Respondent no.6. However, she states that salary bills and pension papers of the Petitioner if submitted to the Respondent no. 6-Education Officer, the same will be processed in accordance with law.

8. Mr. Shaikh, learned advocate appearing for Respondent nos.1 to 5 also tenders resolution dated 4th August 2022 passed by Respondent no.1 i.e. the management, authorising Respondent no.3 to enter into compromise with the Petitioner. The said consent terms and the resolution are taken on record and marked 'X-1' and 'X-2' respectively for identification. The said consent terms read as under:

CONSENT TERMS

"1. By consent of the parties, the impugned Judgment & Order dated 07.10.2015 passed by the Ld. Presiding Officer, School Tribunal, Mumbai in Appeal No. 26/2012, and the termination order dated 04.09.2012, is hereby quashed and set aside and the same stands modified as under:

2. Since the Petitioner has already superannuated on 31.05.2017, the Petitioner does not press the relief of reinstatement and he is deemed to have superannuated by granting him notional reinstatement.

3. The Respondent Nos.1 to 5, considering the Petitioner's services of 31 years from 1986, has agreed to process the proposal of Petitioner's retirement by way of superannuation. The Petitioner has opted and deemed to have superannuated w.e.f. 31.05.2017.

4. The Petitioner further undertakes to this Hon'ble Court that the Petitioner will hereafter not raise any Claim, Demand, Financial or otherwise including claim for Reinstatement in the Respondent Schools under any circumstances whatsoever including non acceptance of proposal of Retiral benefits by the Respondent No. 6; nor claim any backwages or other monetary benefits from the Respondents No. 1 to 5 and all such claims / demands of any nature whatsoever will be deemed to have been fully and finally Settled in all respects. It is agreed that in the unlikely event, the proposal for retiral dues of the Petitioner is not accepted by the Respondent No 6, then in that event the Petitioner can pursue his remedies against the Respondent No 6

before the appropriate forum, however in so far as the Respondents No. 1 to 5 are concerned it will be deemed that the Petitioner has relinquished the claim of reinstatement or right to claim backwages from Respondent Nos.1 to 5.

5. The Respondent Management through the Respondent Nos. 4 & 5 undertakes to process and forward the salary bills for the period from 29.08.2008 to 04.09.2012 of the Petitioner to Respondent No. 6, since the Respondent Management did not claim any salary grant for the post of Petitioner from the Education Department.

6. The Respondent Management through the Respondent No. 4 undertakes to process and forward the necessary pension papers after updating the service book of the Petitioner by giving effect to the Pay Commission Revision.

7. The Petitioner is held entitled to all the pensionary benefits including leave encashment, Medical Allowances, Gratuity, P.F. and any other retiral benefits permissible under Rules / Government Policies and by giving effect to the Pay Commission Revision.

8. The Petitioner is at his own liberty to withdraw and / or to close down his Provident Fund account. The Respondent Management undertakes to co-operate the Petitioner in closing his P.F. Account.

9. The Petitioner and the Respondent Management both agree and undertake to co-operate with each other in respect of processing the necessary papers / proposals for pension and the retiral benefits.

10. The Respondent No. 6 shall process and sanction the salary bills and Pension papers in accordance with law and shall release the pension, Gratuity, P.F. and all other benefits to the Petitioner, treating him to have superannuated on 31.05.2017; within a period of 12 weeks and shall continue to release the regular monthly pension in accordance with law.

11. The Petitioner agrees and declares that all his claims, rights and privileges pertaining to his employment / non-employment with the Respondent Management, stands fully satisfied in terms of above and he will not claim anything else save and except as provided hereinabove.

12. The parties undertake not to reopen the issues involved in the matter and not to agitate any other issues before any Court of Law.

12 Petition disposed of in the above terms.

13. No orders as to costs."

9. In view of the said Consent Terms, order dated 7th October 2015 passed by the learned Presiding Officer, School Tribunal, Mumbai in Appeal No. 26 of 2012 and the termination order dated 4th September 2012 are quashed and set aside.

10. It is clarified that the consent terms will not bind the Respondent no.6.

11. The Writ Petition is disposed of in terms of Consent Terms dated 13th October 2022. However, certain directions are required to be issued.

12. In view of quashing and setting aside of judgment and order dated 7th October 2015 passed by learned Presiding Officer, School Tribunal, Mumbai and termination order dated 4th September 2012, Respondent nos.1 to 5 are directed to submit to Respondent no.6 salary bills and pension papers in accordance with law, within a period of four weeks from today. Respondent no. 6 is directed to process the salary bills and pension papers of the Petitioner and to take decision in accordance with law, within a period of twelve weeks.

13. The Writ Petition is disposed of in above terms with no order as to costs.

BHALCHANDRA
GOPAL
DUSANE

Digitally signed by
BHALCHANDRA
GOPAL DUSANE
Date: 2022.10.14
18:36:42 +0530

(MADHAV J. JAMDAR, J.)