

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.3250 OF 2021**

Anant Gundaji Kamble ... Petitioner

V/s.

State of Maharashtra and Ors. ... Respondents

WITH**WRIT PETITION (ST) NO.15189 OF 2021**

Com. R.B. More Pragatik Secondary School and Ors. ... Petitioners

V/s.

Anant Gundaji Kamble and Ors. ... Respondents

Mr. Avinash H. Fatangare, Advocate for the Petitioner in WP/3250/2021.

Mr. Indrajeet R. Kulkarni, Advocate for Petitioners in WPST/15189/2021.

Mrs. S.S. Bhende, AGP for Respondent – State in both Petitions.

**CORAM : S.V. GANGAPURWALA &
MADHAV J. JAMDAR, JJ.**

DATED : 23rd AUGUST 2022

PC. :

1. Writ Petition No.3252 of 2021 is filed for implementation of the order passed by the Education Officer dated 4th March 2020. It is held that the Petitioner is senior and entitled to be appointed as Headmaster.

2. Writ Petition (St.) No.15189 of 2021 is filed by the Management challenging the same order.

3. We have heard the learned Advocates for the parties. The contention of the learned counsel appearing for the Management is that the Petitioner had relinquished his right to be appointed as Headmaster in the compromise pesis filed before the School Tribunal. The Petitioner - Mr. Kamble was dismissed from service. He had challenged the said order in the School Tribunal. In School Tribunal, compromise was arrived at between the parties.

4. According to the learned Advocate for the institution, in view of the same, Mr. Kamble is not entitled to be appointed as Headmaster. The said aspect has not been considered by the Education Officer. The learned Advocate submits that other person was appointed as Headmaster. It would appear that the Petitioner came to be appointed as Headmaster in April 2020. Thereafter, he retired in July 2021. It is not disputed that the post on which Mr. Kamble was appointed as Headmaster was 100% grant-in-aid post. The Petitioner Kamble has already retired from service in July 2021. No burden is cast upon the Institution.

5. As per Rule 3(3) explanation, a person may relinquish his claim of Headmaster at the relevant time. If subsequently the post

becomes vacant, the said person again has a right to claim the post.

6. It is further submitted that service of Mr. Kamble was not unblemished. Compromise pursis was entered into. It is submitted by the learned counsel for the Institution that Mr. Kamble has also given a letter that in future also he will not claim the post of Headmaster.

7. In light of above facts as the Petitioner has already retired from service and was appointed as Headmaster in April 2021 and retired in July 2021, we pass the following order :

ORDER

- (i) The management shall forward the pension proposal of the Petitioner – Mr. Kamble in accordance with law and shall comply with all the requirements within a period of six weeks from today.
- (ii) Pension proposal shall be processed considering that the Petitioner – Mr. Kamble has retired as Headmaster. Institution shall forward all the documents necessary for sanction of the pension proposal and retiral benefits within six weeks from today.

(iii) With these observations, Writ Petitions are disposed of.

(MADHAV J. JAMDAR, J)

(S.V. GANGAPURWALA, J)