

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

WRIT PETITION NO.2133 OF 2010

Shri Ashok Pandhurangji Jambhulkar,
r/o Wadegaon, Tahsil Warud,
District Amraoti.

... Petitioner

- Versus -

1) The Education Officer (Secondary),
Zilla Parishad, Nagpur.

2) Gramin Shikshan Sanstha,
Thadipaoni, Tahsil Narkhed,
District Nagpur, through its
Secretary.

3) The Headmaster, Thadipaoni
Vidyalaya & Jr. College,
Thadipaoni, Tahsil Narkhed,
District Nagpur.

... Respondents

None for Petitioner.

Ms. Kalyani Deshpande, Assistant Government Pleader for
Respondent No.1.

None for Respondent Nos.2 and 3.

CORAM : NITIN JAMDAR AND
ANIL L. PANSARE, JJ.

DATE : 26 APRIL 2022

P.C. :

The Petitioner has challenged the order dated 4 December 2009 issued by the Respondent No.1 Education Officer (Secondary), Zilla Parishad, Nagpur granting approval to the appointment of the Petitioner with effect from 30 October 2009 instead of 20 December 2003.

2. The Petitioner was appointed as Shikshan Sevak by the Respondent Management on 20 December 2000 for a period of three years w.e.f. 20 December 2000. The services of the Petitioner were terminated by order dated 20 December 2003. The Petitioner filed an appeal before the Grievance Committee for entertaining complaints of Shikshan Sevaks bearing No.2/2005. The Committee by order dated 21 September 2007 allowed the appeal of the Petitioner and directed Respondent Management to reinstate the Petitioner as Assistant Teacher. The Respondent Management filed Writ Petition No.5837/2007, which was disposed of on 5 October 2009 on compromise between Respondent Management and the Petitioner. The Respondent Management agreed to reinstate the Petitioner as per the order passed by the Grievance Committee and submit his bills of salary to the Education Authorities.

3. According to the Petitioner, the Respondent No.1 ought to have given effect to the order passed by the Grievance Committee and, therefore, approval should have been granted from the year 2003 as sought.

4. Reply-affidavit is filed on behalf of the Education Officer justifying the impugned order. It is stated that when the matter was compromised in writ petition by the Petitioner and the Respondent Management, the Education Officer was not a party and the Management and Petitioner unilaterally decided that the Petitioner would be reinstated.

5. As per the pursis filed on 5 October 2009, Respondent Management issued another appointment order to the Petitioner on 30 October 2009 with retrospective effect from 20 December 2003. The Education Officer has asserted that from 20 December 2003 to 29 October 2009, the Petitioner was under suspension and did not work and it is by way of unilateral compromise that bills were decided to be submitted. The stand is taken by the Education Officer that for the period from 20 December 2003 to 29 October 2009 the Petitioner cannot claim salary from the Education Authorities, but it will be the liability of the Respondent Management.

6. The assertion made on oath by the Education Officer of factum of Petitioner not working and being under suspension by way of affidavit of 16 June 2010 has gone unanswered. Therefore, the stand taken by the Respondent Education Officer that for this period it will be the liability of the Management to pay the amount to the Petitioner will have to be accepted. This petition is not filed by the Management, but by the Petitioner and if the stand of the Education Officer is accepted, it is not that the Petitioner will not receive the amount, but it will be from the Management. That being the position, in light of the stand taken by the Education Officer in the affidavit, no further orders are required.

7. It is open to the Petitioner to recover the amount from the Respondent Management for the period stated in this petition as per law.

8. Writ Petition is accordingly disposed of. Rule is made absolute in above terms. No order as to costs.

(ANIL L. PANSARE, J.)

(NITIN JAMDAR, J.)

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