

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.1553 OF 2021

Parshuram S/o Raoji Chopde, Wadsa Road, Tah. Armori, Dist. Gadchiroli

-vs-

The Chief Executive Officer, Zilla Parishad, Gadchiroli and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri S. K. Patil, Advocate for petitioner.

Smt S. P. Giratkar, Advocate for respondent Nos.1 and 2.

Ms S. S. Jachak, Assistant Government Pleader for respondent No.3.

CORAM : A. S. CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.

DATE : September 21, 2022

P. C.

Heard.

The petitioner was appointed as a primary teacher at the school run by Zilla Parishad. During the course of service, the petitioner was referred to the Medical Board which certified him to be unfit for rendering further service in view of his poor vision in both the eyes. The respondent No.2 thereafter sought to superannuate the petitioner from 12/02/2018 in view of such certificate. The petitioner then made a representation to the respondent No.3 Divisional Commissioner praying that he be granted relief in terms of Section 47(1) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (for short, the Act of 1995). On

15/07/2019 an order was passed by the Chief Executive Officer, Zilla Parishad, Gadchiroli by which it was directed that the petitioner be taken back in service on the post of Attendant. There was a dispute with regard to his earned leave for a period of 76 days from 05/02/2019 to 21/04/2019 and extraordinary leave without pay for a period of 85 days from 22/04/2019 to 15/07/2019. In that backdrop the petitioner approached to this Court with a prayer that he be granted benefit under Section 47 (1) of the Act of 1995.

It is to be noted that the said Act of 1995 however has been repealed and now the field is covered by provisions of the Rights of Persons with Disabilities Act, 2016 (for short, the Act of 2016). On 23/06/2022, the respondent No.3 was directed to file an affidavit so as to verify the position with regard to the service benefits that could be granted to the petitioner in the light of pari materia provisions of Section 47(1) of the Act of 1995.

In the affidavit filed by the respondent No.3 it has been stated that the Zilla Parishad has approved leave for a period of 76 days as earned leave and 85 days as extraordinary leave without pay to the petitioner. Similarly directions have been issued on 03/02/2019 to the Zilla Parishad to take action in

accordance with Section 47(1) of the Act of 1995.

The learned counsel for the petitioner has relied on the decision in *Deepak Mahadeorao Adchule vs. Vice-President and Divisional Director, Maharashtra State Road Transport Corporation and Anr. (2022) 1 LLJ 498* to urge that he is entitled to be granted service benefits that were admissible to him when he was discharging duties as primary teacher. We find that under Section 20 of the Act of 2016, the petitioner would be entitled to all such service benefits had he continued on the post of primary teacher.

Accordingly the respondent Nos.1 and 2 are directed to make available all service benefits to the petitioner that were admissible to him when he was holding the post of primary teacher. Necessary steps in that regard be taken within a period of four weeks from receipt of copy of this order.

Writ petition is disposed of with aforesaid directions with no order as to costs.

(Urmila Joshi-Phalke, J.)

(A. S. Chandurkar, J.)