

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.7561 OF 2022**

Rayat Shikshan Sanstha Satara & Ors.

..Petitioners

Vs.

Bhagwanta Tanbaji Pote & Ors.

...Respondents

Mr. N. V. Bandiwadekar, Senior Advocate with Mr.Milind Deshmukh, for the
Petitioners.

Mr. Pandit Kasar, for Respondent No.1.

Ms. Vaishali S. Nimbalkar, AGP for the State.

CORAM : G.S. KULKARNI, J.

DATE : FEBRUARY 22, 2023

PC. :-

1. This petition under Section 227 of the Constitution of India assails the judgment and order dated 20 October 2021 passed by the learned Presiding Officer, School Tribunal at Solapur. By the impugned order, the punishment which was awarded to respondent No.1 by the petitioner-management, by an order dated 28 December 2018 reducing his rank from the post of a 'Full Time Librarian' to the post of 'Part Time Librarian' and posting him from Mahatma Gandhi Vidyalaya Pravaranagar Tal. Rahata, Dist. Ahmednagar to Mahatma Phule Vidyalaya Janori Tal. Dindori, Dist-Nashik, is declared to be illegal, bad-in-law and is set aside. Also the enquiry report is declared to be bad in law and was quashed, with liberty to the petitioner-management to conduct a fresh enquiry by following lawful procedure and a further direction that respondent

No.1 be treated under suspension by issuing a written order as per law. Till the completion of enquiry, the petitioner-management was directed to pay subsistence allowance to respondent No.1 as per law.

2. The circumstances are quite peculiar inasmuch this petition was filed on 13 January 2022 and the same had appeared before the co-ordinate Benches, however, it is seen that there were no interim orders passed on the petition. Today the situation is such that respondent No.1 who is in services of the petitioner since the year 1994 (from 8 February 1994) earlier as 'Part Time Librarian' and subsequently as 'Full Time Librarian' with effect from 19 March 1998, would now retire on 31 May 2023.

3. Taking an overall view of the matter and the long years of services rendered by respondent No.1, Mr.Bandiwadekar, learned Senior Counsel for the petitioner has fairly stated that a decision is taken by the petitioner not to proceed in any fresh enquiry against respondent No.1 and the petitioner is agreeable to accept the orders in terms of paragraph (2) of the operative order passed by the School Tribunal. Paragraph (2) of the said order is required to be noted which reads thus:-

“2. The impugned punishment order dt. 28/12/2018 reducing in rank from the post of full time Librarian to Part time Librarian and punishing posting from Mahatma Gandhi Vidyalaya Pravaranagar Tal. Rahata, Dist. Ahmednagar to Mahatma Phule Vidyalaya Janori Tal. Dindori, Dist-Nashik is declared as illegal, bad in law and same is quashed and set aside.”

4. In view of a fair stand taken on the part of the petitioner, the

consequence would be that respondent No.1 would now stands absolved from the punishment imposed on him by an order dated 28 December 2018 by which he was reduced from his rank as Full Time Librarian to Part Time Librarian, and he would now be occupying his regular post of a 'Full Time Librarian' by virtue of the impugned order dated 20 October 2021 passed by the learned Presiding Officer of the School Tribunal. Needless to observe that he would be entitled to all the benefits as a regular employee, consequent to such order passed by the tribunal. As also he shall retire with all the benefits as a regular employee.

5. Learned Counsel for respondent No.1 has also taken a fair stand that insofar as the period between 28 December 2018 on which the punishment was imposed on respondent No.1 of reduction in rank, till the date of the impugned order passed by the School Tribunal i.e. upto 20 October 2021, respondent No.1 shall not claim any backwages in respect of the post of Full Time Librarian. Statement made by learned Counsel for respondent No.1, on instructions, is accepted.

6. Insofar as the situation which is brought about by the petitioner accepting the orders passed by the School Tribunal in paragraph 2 of the operative part of the impugned order are concerned, the petitioner-management is permitted to seek appropriate reimbursement of the difference in the salary between the post of a 'Full Time Librarian' and 'Part Time Librarian' from the period 20 October 2021, till the passing of present order by

this Court, from the State Government. It is clarified that however, such issue of reimbursement for the period from 20 October 2021 till the present order is passed, shall not, in any manner affect the entitlement of respondent No.1 to claim full salary of the post of 'Full Time Librarian' with effect from 1 March 2023 and the State Government in the peculiar facts of the case and considering that respondent No.1 is now reinstated as 'Full Time Librarian', shall grant benefit to such 'aided post', as occupied by respondent No.1, by releasing grant to such post, also in view of the fact that there is no other post available and the only post of 'Full Time Librarian' is held by respondent No.1.

7. With the above observations, the petition would not require further adjudication. It is accordingly disposed of.

8. Parties to act on the authenticated copy of this order.

[G.S. KULKARNI, J.]