

Arjun

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

WRIT PETITION NO.4073 OF 2021

The Chairman, Bharat Vikas
Shikshan Prasarak Mandal & Anr.

...Petitioners

V/s.

Vitthal Shivsharan Birajdar & Ors.

...Respondents

Mr. I. M. Khairdi, for the Petitioners.

Mr. Chintamani Bhangoji, for Respondent No.1.

Smt. M. S. Srivastava, AGP, for Respondent-State.

CORAM : MADHAV J. JAMDAR, J.

DATED : SEPTEMBER 11, 2023

P.C.:

1. Heard Mr. Khairdi, learned counsel appearing for the Petitioners, Mr. Bhangoji, learned counsel appearing for Respondent No.1 and Smt. Srivastava, learned AGP appearing for the Respondent-State.

2. Both the learned counsel state that the dispute between the Petitioners and Respondent No.1 has been settled and they have entered into the Consent Terms. Mr. Radheshyam Rajgopal Oza, Headmaster of the School-Bharat Vikas Shikshan Prasarak Mandal i.e. Petitioner No.2 as well as Mr. Vitthal Shivsharan Birajdar-Respondent No.1 are present in the Court. Both of them state that the dispute between the Petitioners and the

Respondent No.1 is settled in terms of the Consent Terms. Both of them confirm that the signatures on the Consent Terms are their signatures. The signatures of the parties are identified by their respective Advocates. Accordingly, the Consent Terms are taken on record and marked "X" for identification.

3. The Consent Terms read as under :-

"CONSENT TERMS

Herein I, Petitioner No.1 Ratanabai Bharat Jamadar, Petitioner No.2 Radhesham Rajgopal Oza, Respondent No.1 Vitthal Shivsharan Birajdar, All R/o. Solapur, The Petitioners and the Respondent no. 1 herein have arrived at an amicable settlement and are filling the consent terms as under do hereby state on solemn affirmation that,:-

- I. The Respondent no. 1 was appointed on 03.06.1993 as assistant teacher. The same was approved on 12.06.1996. That the Respondent no. 1 was terminated on 02.08.2008. The said termination was challenged on 04.12.2013 along with delay condonation application. The application seeking condonation of delay, was rejected. However on 08.01.2016, the delay was condoned by the Hon'ble Court in its order in WP No. 6308 of 2014. Thereafter the Appeal No. 5 of 2016, came to be registered and thereafter allowed on 17.01.2020, which is impugned in the above Writ Petition.
- II. By these consent terms, the Respondent No. 1 has agreed to waive his right to claim the of basic wages from the Petitioners, as ordered in clause 4 under the impugned judgment and order dt. 17.01.2020 passed in Appeal No. 5 of 2016.

- III. That the Respondent No. 1 has also waived off his right to claim the benefits about seniority in the light of impugned judgment and order and has agreed not to disturb the seniority list standing as of today. But it will not disturb the right of increments in scale.
- IV. That the Petitioners have agreed to give notional service benefits and continuity in service, to the Respondent No. 1, save and except the monetary benefits. That the service book of Respondent No.1 will be updated at the earliest by petitioners. That the Respondent no.1 will never take up the issue for any of the claim except these consent terms excepts these terms hereafter on the basis of the impugned judgment and order at any time in future.
- V. That the post of the Respondent No. 1 was permanent and vacant. That the appointment was made after following due procedure of law which was duly approved. That the post of the Petitioner was recognised post getting grant in Aid. That the Petitioners will prepare and submit the salary bill of the Respondent No. 1 starting since from 17.01.2020 to the educational authorities, the Respondent No. 2 and 3 herein within a period of two weeks from the date of signing of these consent terms. The same be processed and decided by the said Respondents Nos. 2 and 3 within period of 6 weeks from the receipt thereof and make available the benefits of the same, if any, to the Respondent No.1 by including his name in SHALARTH PRANALI, within a period of 6 weeks thereafter in accordance with law. That the Petitioners will issue joining letter on 15/09/2023 and the Respondent No.1 will join the duty on 15/09/2023 at 11.00 a.m. time.

- VI. That the Respondent No. 1 has filed execution proceeding, criminal complaint U/s.13 of M.E.P.S Act. proceedings against the Petitioners and ors. on the basis of the impugned judgment and order dt 17.01.2020 in Appeal No. 5 of 2016. The Respondent no. 1 agrees to, confirms and undertake to withdraw the same within a period of two weeks from the date of signing of these consent terms and not to press said proceedings for any further against anybody including the petitioners herein.
- VII. The parties undertake to this Hon'ble Court to abide in terms of all of the above mentioned.
- VIII. The petition stands disposed of in above terms with no orders as to the costs."

- 4.** Accordingly, the Writ Petition is disposed of in terms of the Consent Terms.
- 5.** The Petitioners will prepare and submit the salary bill of Respondent No.1 w.e.f. 17th January 2020 to the Education Authorities i.e. Respondent No.2 and Respondent No.3 within a period of two weeks and the same be processed and decided by the Education Authorities within a period of six weeks thereafter in accordance with law.
- 6.** The Writ Petition is disposed of in above terms with no order as to costs.

[MADHAV J. JAMDAR, J.]