

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.640 OF 2018

Santosh Pandharinath Pagare

....PETITIONER

V/S

Malegaon Education Society & Ors.

....RESPONDENTS

...

Mr. Anilkumar Patil i/b Mr. A.R. Kapadnis for the Petitioner.

Mr. N.R. Bubna for Respondent Nos.1 to 3.

Mr. P.V. Nelson Rajan, AGP for Respondent.

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CORAM: SANDEEP V. MARNE, J.

DATE : DECEMBER 12, 2023.

P.C.:

1 By this Petition Petitioner challenges judgment and order dated 26 October 2016 passed by the Presiding Officer, School Tribunal, Nashik, dismissing Appeal No.11 of 2012 instituted by the Petitioner challenging his oral termination effected on 23 January 2012.

2 I have heard Mr. Patil, the learned Counsel appearing for the Petitioner and Mr. Bubna, the learned Counsel appearing for Respondent-Management.

3 Mr. Patil has essentially contended that the Tribunal has not taken into consideration voluminous documentary evidence produced by the

Petitioner in support of his case that he has worked continuously during the years 2007 to 2012. He would submit that the order passed by the School Tribunal would indicate that the Respondent Management had not even filed its Affidavit. He would therefore submit that the Appeal deserves to be remanded for being considered afresh by the Tribunal, which will not cause any prejudice to the Respondent-Management. The alternate submission of Mr. Patil is that there are several posts in Scheduled Caste category which are lying vacant and unfilled with the Respondent-Management and since the Petitioner belongs to scheduled caste category, his case can be considered for being appointed against one such vacant scheduled caste category post.

4 After considering the findings recorded by the Tribunal as well as various documents placed on record by the Petitioner, it is seen that the only document filed by the Petitioner in support of his claim of appointment with the Respondent-School is the appointment letter dated 25 June 2007. The appointment letter clearly stated that Petitioner's appointment was during leave period of another Sikshan Sevak Smt. Harshala Bhaskarrao. However, apparently there is the typographical error in the appointment order wherein the appointment is shown for the period from 25 June 2007 to 22 September 2009. It is the case of the Respondent-Management that the appointment was only for a period of two months when Smt. Harshala Bhaskarrao was on leave. The Tribunal has considered this aspect and has recorded following findings in paragraph 32 of the order:

'32. It appears from initial clause No.1 of the appointment order that appellant was appointed for temporary period in leave period of Panje Harshala Bhaskarrao from 25.06.2007 in respondent No.2 school. Respondent management has produced approval dated 10.03.2008 (Exhbt.40) of appointment of the appellant for leave period of the Panje Harshala. It is seen that name of Harshala Panje is mentioned at serial number 1 who was on leave. At serial number 2 name of appellant is mentioned stating that he was appointed in leave period from 25.06.2007 to 29.09.2007. This clearly indicates that appellant's appointment was for period of three months and the Education Officer has also approved for the mentioned period.'

5 Except the appointment order dated 25 June 2007 no other order is placed on record to indicate that the appointment was either continued or any fresh appointment letter was issued to the Petitioner after 29 September 2007. In my view, therefore, the Tribunal has not committed any patent error while holding that the Petitioner's appointment was only for the period between 25 June 2007 to 29 September 2007. It can also not be held that the Tribunal has ignored any documents as sought to be suggested by the Petitioner.

6 So far as the alternate prayer of Mr. Patil about appointment of the Petitioner against vacant post of teachers in scheduled caste category is concerned, I am afraid the said prayer cannot be granted. If indeed there is any vacant scheduled caste category post, the same will have to be advertised and filled by convening a selection. For having worked with the Respondent-Management from 25 June 2007 to 29 September 2007, Petitioner does not get any right to seek appointment against the scheduled caste category post which are now lying vacant. Therefore, the prayer made by the Petitioner for appointment against the scheduled caste vacant post of teacher cannot be granted.

7 I, therefore, do not find any error in the Tribunal's decision. Petition, being devoid of merits, is dismissed without any orders as to costs.

(SANDEEP V. MARNE, J.)