



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

WRIT PETITION NO.9014 OF 2021

Mrs. Nilam Sham Gajbare]
Age 44 years, Occupation – Service]
Residing at A/2, Dew Drop Society,]
Kasarwadi, Pune 411 034.] .. Petitioner.

v/s.

1 The Secretary]
Maharshi Karve Stree Shikshan]
Sanstha, Karve Nagar,]
Pune 411 052.]
2 The Principal/ Head Master]
Mahilashram High School, Karve]
Nagar, Pune 411 052.]
3 The Joint Director of Vocational]
and Educational Training,]
Regional Office, Ghole Road,]
Shivajinagar, Pune 411 005.]
4 The Director,]
(Vocational Education) Training]
Vocational Education and Training]
Directorate, Maharashtra State]
Mumbai 400 001.]
5 The State of Maharashtra]
through the Principal Secretary]
Vocational Education & Training]
Mantralaya, Mumbai 400 032.] .. Respondents.

Mr. Chetan G. Patil, for the Petitioner.
Mr. S. B. Kalel, AGP for Respondent-State.

**CORAM: SUNIL B. SHUKRE &
FIRDOSH P. POONIWALLA,JJ.
DATED : 5th OCTOBER, 2023.**

ORAL JUDGMENT (Per SUNIL B. SHUKRE,J.):-

Heard.

2 **RULE.** Rule made returnable forthwith and heard finally by consent of the parties.

3 We find that the impugned order, in so far as it grants reinstatement in the service, proceeds on wrong assumption that the School Tribunal, Pune has granted reinstatement in service from the date on which approval for such reinstatement was granted. Whenever an order of a judicial tribunal says that reinstatement is directed, it would only mean that the approval for reinstatement in service would have to be given from the date on which the appointment was made. Therefore, to this extent, the impugned order dated 29th May, 2018 is illegal. The Joint Director would have to grant approval for reinstatement in service of the Petitioner from the date on which she was appointed.

4 As regards the decision taken by the Joint Director about the applicability of DCPS in the case of the Petitioner, we are of the view that the decision is required to be reviewed by the Joint Director by taking into consideration the relevant facts and circumstances of the case.

5 Accordingly, we allow the Petition. Impugned order dated 29th May, 2018 is hereby quashed and set aside to the extent it grants approval to the reinstatement in service of the Petitioner from the date on which the approval is granted.

6 We direct that approval shall be granted to the appointment of the Petitioner from the date on which she was appointed. A fresh approval shall accordingly be issued by the Joint Director within a period of two weeks from the date of the order.

7 We further quash and set aside the direction of the Joint Director (Education) on applicability of new Pension Scheme or DCPS to the Petitioner and we direct him to take a fresh decision by taking into consideration relevant facts and circumstances of the case in this regard. A fresh decision in this regard shall be taken in accordance with law by the Joint Director as early as possible, preferably within a period of eight weeks from the date of this order and thereafter, it shall be communicated to the Petitioner.

8 Rule is made absolute in the above terms. There shall be no order as to costs.

(FIRDOSH P POONTWALLA,J.)

(SUNIL B. SHUKRE,J.)