

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

WRIT PETITION NO.3077 OF 2018

[Sopandeo Rushiji Padole .vs. Apang Vikas Mandal and others]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri P.N. Shende, Advocate for the petitioner,
Shri M.H. Mahashabde, Adv. h/f Shri S.R. Bhongade, Adv. for respondent no.1,
Shri H.D. Dubey, AGP for respondent nos.3 and 4.

CORAM : ANIL S. KILOR, J.

DATE : 12th JULY, 2023.

The only grievance raised in the present petition is as regard the denial of back-wages to the petitioner while granting reinstatement by the Divisional Commissioner.

2. The petitioner was working in the respondent no.2 – Niwasi Apang Vidyalaya (Handicapped School) and he was terminated with effect from 1.10.2001. Thereupon, he approached to the Divisional Commissioner by filing an appeal, which was allowed vide order dated 5.5.2016. In pursuance to the same, the petitioner was reinstated in the month of August-2016 and, thereafter, the approval was granted to the appointment of the petitioner.

3. In the present petition the petitioner is claiming back-wages from 1.10.2001 till August-2016 i.e. from the date of termination till the reinstatement of the petitioner.

4. On a specific query put to the petitioner to show the pleading made in the appeal memo that the petitioner was not gainfully employed elsewhere during the period of termination or any evidence led by him in this regard, the learned counsel for the petitioner fairly states that there are no pleading made by the petitioner in the appeal memo or no evidence was led in this regard.

5. Considering the said fact and also considering the well settled position of law that the burden lies on the petitioner to establish that during the period of termination he was not gainfully employed elsewhere, to claim the back-wages, I am of the opinion that no error has been committed by the Divisional Commissioner in not granting back-wages to the petitioner.

6. It is pertinent to note at this juncture that in the month of September-2018, the school was de-recognized with effect from 1.4.2016. Thus, in the above referred backdrop, I do not find any merit in the writ petition. The writ petition is dismissed.

(ANIL S. KILOR, J.)