

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

WRIT PETITION NO. 2427 OF 2019

Sanjay Chandrakant Nagalkar __ Vs. __ The Divisional Commissioner and ors

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

Court's or Judge's orders

Mr. P.N.Shende, Advocate for petitioner
Mr. Amol Deshpande, Advocate for Respondent Nos. 2 & 3
Mr. N.R.Patil, AGP for Respondent No.1

CORAM : AVINASH G. GHAROTE, J.
DATE : 09/02/2023

1] The petition challenges the order dated 13.6.2011 (pg.20) passed by the respondent No.1, whereby the appeal by the petitioner has been partly allowed and the appellant's four increments are permanently barred with cumulative effect and at the same time the respondent was directed to reinstate the appellant by giving him positing elsewhere preferably in the boys' school.

2] Learned AGP makes a statement that the appellant has been reinstated. Mr. Shende, learned counsel for the petitioner also does not dispute this position. The reinstatement therefore has taken effect.

3] Thereafter the petitioner approached the Education Department for grant of backwages which claim has been rejected by the respondent no.2 by the order dated 13.8.2014 (pg.21) which has been challenged in appeal before the respondent no.1, who by

his order dated 2.5.17 has maintained the same by dismissing the appeal (pg. 26). The review there against has also been dismissed by the order dated 25.12.2019.

4] Mr. Shende, learned counsel for the petitioner submits that since the reinstatement has been maintained, the same would obviously include continuity of service plus backwages. I am afraid, I am unable to accept this proposition. No doubt the order of reinstatement would automatically include continuity of service, however, since the backwages have not been granted, it cannot be presumed that the claim of reinstatement would automatically include the same, as in my considered opinion, there is no order of payment of backwages.

5] Mr. Shende, learned counsel for the petitioner has tendered across the bar the pursis dated 8.2.2023, which is taken on record and marked as "X", by which the claim for arrears of backwages has been given up.

6] The statement in the pursis is accepted as the statement to the Court, in view of which the petition is dismissed. It is however, clarified that the order of reinstatement of the petitioner would mean the reinstatement with continuity of services.