

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

Writ Petition No.4404/2017

Ku. Karuna V the Additional tribal Commissioner, Nagpur and others

Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

Court's or Judge's Orders

Mr. S.P. Kshirsagar, Adv for petitioner.
 Mr. Deshpande, Adv for resp. nos. 2 and 3.
 Mr. N.R. Patil, AGP for resp. no.1.

CORAM : AVINASH G GHAROTE, J.
DATE : 15-02-2023

The petition challenges the order dated 16-09-16 (pg 31) and the order dated 1-4-17 (pg 36), whereby the claim of the petitioner for being appointed as Headmistress of the school being run by respondent no. 2 in place of respondent no. 3 has been denied, on the ground that when the offer was made she had declined to accept the same.

2. The learned Counsel for the petitioner submits that since the offer was conditional, for that reason the same was not accepted and therefore, such non acceptance cannot come in her way. Learned Counsel places reliance upon **Javed Iqbal s/ Chhotababu vs Adminstrator, Jawahar Urdu High School, Ashti and others 2006(1) MHLJ 635** and **Kamal d/o Bansidhar Ghatol vs Sawate Education Society, Belkhed and others, 2006(2) Mh.L.J. 675.**

3. Mr. Deshpande, learned Counsel for respondent nos. 2 and 3, supports the impugned order by opposing the contention that the offer was unconditional and so also states that the denial by the petitioner, to accept the offer was also unconditional as a result of which the respondent no.3 was appointed as the Headmaster.

4. Learned AGP supports the impugned orders.

5. It is not in dispute that the petitioner at the relevant time in the year 2003 was the senior-most teacher in the school run by respondent no. 2, which is a primary school and therefore the provisions of the Maharashtra Employees of Private Schools Rules, 1981 would clearly not be attracted and therefore the reliance placed upon **Javed Iqbal and Kamal** (supra) is misplaced as the matter in these two judgments was on the basis of the Rules framed therein. That apart the communication dated 8-8-2003 (pg 108) indicates that the offer made to the petitioner by the respondent no. 2 to occupy the post of Headmistress was unconditional. As against this the affidavit dated 01-09-2003 by the petitioner, to the Project Officer, Tribal Development Department Chandrapur, which is at page 109 would indicate that the petitioner had declined to accept the post not on account of the offer being conditional, but

on account of her being a lady due to which she found herself in-capable of handling the post of Headmistress.

6. In the year 2011 also the petitioner was again offered the post of Headmistress in pursuance to which the petitioner had also written a communication to the Project Officer dated 23-08-11 in this regard (pg 114) accompanied with an affidavit to that effect (pg 116) which is in the same vein as that of the affidavit dated 1-09-2003, declining to accept the post of Headmistress. It is therefore quite apparent that neither the offer was unconditional nor the denial conditional. This would clearly indicate that the petitioner has voluntarily declined to accept the offer of being Headmistress when the same was offered to her twice.

7. This being the position, I do not see any reason to interfere in the impugned orders. The petition is therefore devoid of any merit and accordingly dismissed.

JUDGE