

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

WRIT PETITION NO.7501 OF 2018

(KU. SMITA TADOBA TUMSARE..VS.. STATE OF MAH.DEPT. OF EDUCATION & OTH.)

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

Court's or Judge's orders

Shri Rohit M. Vaidya, Advocate for Petitioner.
Ms H.N.Jaipurkar, A.G.P. for Respondent Nos.1 to 3.

CORAM : ANIL S. KILOR, J.

DATED : JULY 25, 2023.

1. Heard.

2. The petitioner, who was appointed as Shikshan Sevak for three years on 21/12/2009, was terminated on the ground that the petitioner has become surplus due to reduction in strength of the students. The termination was subject matter of the appeal before the School Tribunal which came to be dismissed vide impugned judgment and order dated 12/01/2015. Hence, this petition.

3. From the facts of the matter at hand, there is no dispute that the date of appointment of the petitioner is 21/12/2009 and the probation period was of three years. The petitioner came to be terminated on 31/03/2012 i.e. during the period of probation. The ground mentioned in the termination order is reduction in strength of the students as well as reduction in the posts of Assistant

Teachers. In the letter of approval issued by the Education Officer (Primary) there is a mention of such condition that in case of reduction of the strength the approval would stand cancelled.

4. The petitioner has stated that at the end of the academic session 2012-13 due to retirement three vacancies were created. However, the dates are not given and the names of the employees have also not mentioned. The petitioner was terminated on 31/03/2012 and it is not the case of the petitioner that on the date of termination some posts were vacant. In absence of any evidence produced by the petitioner to show that the reason on which she was terminated was not proper or it was contrary to the record, it cannot be said that the termination is bad.

5. The learned School Tribunal, after examining the evidence available on record, has found that the termination was proper for the reason that the petitioner was terminated during the probation period. It is a well settled law that the simpliciter termination of a probationer is not stigmatic as, such appointment on probation does not create any right in favour of the probationer.

6. In the circumstances, as there is no illegality or perversity committed by the learned School Tribunal, the impugned order needs no interference. Accordingly, I pass the following order:

The Writ Petition is **dismissed**. No order as to costs.

JUDGE

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