

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

WRIT PETITION NO. 6782 OF 2022

Asma Iqbal Isani
Age @ 36 yrs, Occ – Service,
R/o. New Jama Mazjid, Main Line,
Tq. Darwha, Dist. Yavatmal.

..... **Petitioner**

...Versus...

- (1) The State of Maharashtra
through its Secretary for
Tribal Development Department,
Mantralaya, Mumbai.
- (2) The Additional Commissioner,
Tribal Development Department,
Amravati Region, Amravati.
- (3) The Project Officer,
Integrated Tribal Development
Project, Pusad, Tq. Pusad,
Dist. Yavatmal.
- (4) Sant Tukdoji Sevapith
Through its Secretary/President,
Tq. Arni, Dist. Yavatmal.
- (5) The Headmaster
Late Ganpatrao Patil,
Higher Education, Adivasi
Ashram School, Chikani(K),
Tq. Arni, Dist. Yavatmal.

..... **Respondents**

Mr. S. M. Vaishnav, Advocate for the petitioner
Mrs. K. R. Deshpande, A.G.P. for respondents 1 to 3
None for respondents 4 and 5

CORAM : ROHIT B. DEO AND M. W. CHANDWANI, JJ.

DATE : 12-7-2023

ORAL JUDGMENT : (PER ROHIT B. DEO, J.)

Rule. Rule made returnable forthwith. With consent, heard finally.

2. The petitioner is assailing the order dated 27-3-2023 passed by the Additional Commissioner, Tribal Development, Amravati whereby the services of the petitioner are permanently approved with effect from 4-2-2019. The petitioner contends that the services of the petitioner ought to have been approved with effect from 15-9-2018 on which date she completed the probation of three years as Shikshan Sevak.

3. The backdrop of the petition is that the petitioner was terminated from service and in Appeal 14/2019, the School Tribunal, Amravati held the termination to be illegal and directed the management to reinstate the petitioner in service with back wages from 4-2-2019. We may extract the operative part of the judgment dated 20-1-2022 in Appeal 14/2019.

“1] The appeal is allowed.

2] The otherwise termination of the appellant w.e.f.

04.02.2019 is hereby set aside.

- 3] The respondents No. 1 and 2 are directed to reinstate the appellant on her former post within 30 days from this order.*
- 4] The respondents No. 1 and 2 are directed to pay full back wages to the appellant from 04.02.2019 till her reinstatement within three months.*
- 5] The appellant is entitled to full salary from tomorrow i.e. from 21.01.2022.*
- 6] The appellant be deemed to be continuous in service from 04.02.2019 for all service benefits excluding the benefit of earned leave.*
- 7] The parties shall bear their own costs.*
- 8] Copy of this order be sent to respondent No. 3 and 4 for information.”*

4. It appears that the Additional Commissioner has totally misunderstood the directions issued by the School Tribunal and has granted approval with effect from 4-2-2019, without noticing the findings recorded by the School Tribunal *inter alia* in paragraph 46.

5. The School Tribunal has held the appellant to be in continuous service from 4-2-2019 since the date of termination i.e. 4-2-2019. It is obvious that there was no reason for the School Tribunal to make any reference to the earlier period in

view of the findings recorded in paragraph 46 that the petitioner - employee established that she attained the status of permanent employee and she was on duty after 15-9-2018 also.

6. We clearly see misunderstanding and misconstruction of the judgment of the Tribunal.

7. The petitioner is entitled to approval not from the date of the termination which is held illegal but from the date on which according to the School Tribunal, she attained permanent status, on completion of period of three years on probation as Shikshan Sevak. We therefore, direct respondents 4 and 5 to submit an appropriate proposal within the next four weeks to the Additional Commissioner, Tribal Development, Amravati seeking approval to the appointment of the petitioner with effect from 15-9-2018 i.e. the date on which the petitioner completed the probation period of three years as Shikshan Sevak.

8. The Additional Commissioner shall decide the proposal, consistent with the observations supra, within two weeks from the date of receipt of the proposal.

9. The petition is allowed in the aforestated terms.

(M. W. Chandwani, J.)

(Rohit B. Deo, J.)

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