

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

Writ Petition No.613 of 2017

Aniruddha S/o Mansaram Kore

Versus

State of Maharashtra and others

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

Court's or Judge's order

Shri Amol Mardikar, Counsel for Petitioner.

Shri A.A. Madiwale, Assistant Government Pleader for Respondent Nos.1 to 3.

Shri I.N. Choudhari, Counsel for Respondent Nos.4 and 5.

CORAM : A. S. CHANDURKAR AND M.W. CHANDWANI, JJ.

DATE : MARCH 28, 2023.

By this Writ Petition, the petitioner prays that the services rendered by him from 12-7-2001 till 31-12-2008 be taken into consideration for computation of his retirement and pension benefits.

We have heard Shri Mardikar, learned counsel for the petitioner, Shri Madiwale, learned Assistant Government Pleader for the respondent Nos.1 to 3, and Shri Choudhary, learned counsel for the respondent Nos.4 and 5. We find that the petitioner came to be appointed on year to year basis from 27-6-1995. He acquired the training qualification in 2001 and based on that he was issued an order of appointment on 12-7-2001 on probation for a period of two years. Though the petitioner's appointment was approved in the year 2002, the same to be withdrawn by the order dated 25-3-2003. The petitioner therefore approached this Court in Writ Petition No.2083 of 2003. This Court in Para 5 of the judgment delivered in the said Writ Petition observed as under :

"5. Hence, we direct the respondent nos.4 and 5 to take immediate steps to invite applications for the post of Assistant Teacher under the respondent no.4 school and the petitioner shall be given preference in the selection process for the said post, keeping in mind his experience of six years under the respondent no.4 School. The selection process will be finalized by 31st December, 2008 and the appointment shall be made by 01.01.2009. The proposal for approval would be submitted to the respondent no.3 within 15 days from the date of appointment and the same shall be cleared by the respondent no.3 as expeditiously as possible

and in any case within four weeks from its receipt. The petitioner shall not claim any benefit for the period prior to 01.01.2009 against any of the respondents and the Management shall not resort to any recoveries against the petitioner for the past period.”

Subsequently, the petitioner participated in the recruitment process and he has been appointed as Assistant Teacher and his services have been approved thereafter.

We find that in the earlier round of litigation, the petitioner had categorically given up his claim against the respondents for the period prior to 31-12-2008. The same has been expressly recorded in the order passed in Writ Petition No.2083 of 2003. We therefore do not find that the petitioner's claim for treating his earlier service from 12-7-2001 to hold him entitled for retirement and pension benefits can be sustained.

For the aforesaid reasons, no relief can be granted to the petitioner.

The Writ Petition is dismissed with no order as to costs.

(M.W. CHANDWANI, J.)

(A. S. CHANDURKAR, J.)

LANJEWAR