



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 5825 OF 2021

Shivaji Bhagwat More
Age 47 years, Occ : Nil,
R/o. Sarola (Mandwa),
Tq. Washi, Dist. Osmanabad.

...Petitioner

Versus

1. The State of Maharashtra
Through Secretary,
School Education Department,
Mantralaya, Mumbai-4000032.
2. The Secretary,
Shri. A.P.D. Jain Pathshala,
Bali ves, Solapur-02.
3. The Education Officer (Secondary)
Zilla Parishad, Osmanabad,
Tq. And Dist. Osmanabad.
4. The Head Master,
Deshbushan Kulbhushan Vidhyalaya,
Kunthalgiri, Tq. Bhoom,
Dist. Osmanabad.

...Respondents

...

Advocate for the Petitioner : Ms. More Shubhangi D.
AGP for Respondent/State : Mr. A.S. Shinde
Advocate for Respondent Nos.2 & 4 : Mr. Malte Uday S.

...

CORAM : S. G. MEHARE, J.

DATED : JANUARY 12, 2024

ORDER :-

1. Heard the learned counsel for the petitioner and
learned counsel for the respondents.

2. The brief facts of the case were that respondent No.2 had published the advertisement inviting an application for the post of teacher on 18.08.1999. The petitioner had applied. He faced the interview and was selected as Shikshan Sevak. However, the petitioner alleged that on 11.06.2001, he was orally terminated. He approached the School Tribunal at Aurangabad in 2001 against the oral termination. It is submitted that the Aurangabad Tribunal held that it has no jurisdiction. It has been further argued that the Aurangabad Tribunal has referred that petition to the Solapur School Tribunal.

3. The undisputed facts were that the petitioner approached the Grievance Committee after the proceeding initiated before the School Tribunal, Aurangabad. The Grievance Committee accepted his claim. Respondent No.2 Management has impugned the Constitution of the Grievance Committee and its jurisdiction to decide the issues involved before it. Against the said order, respondent No.2 Management approached the Hon'ble Supreme Court. The Hon'ble Supreme Court in Civil Appeal No.4988 of 2011 (Arising out of SLP (C) No.22040/20081) and Civil Appeal No.4989 of 2011 (Arising out of SLP (C) 23566/20081) dated July 4, 2011, set aside the orders of the Grievance Committee dated 02.05.2008 and 05.08.2008, and it was held that the order of the Grievance Committee is treated as a

recommendation rendered for the benefit of the Education Department which can on the basis of the said opinion take appropriate action in accordance with law.

4. Learned counsel for respondent no.2 relied on the above order of the Hon'ble Supreme Court and vehemently argued that the quasi-judicial forum constituted by the order of the High Court was held illegal. There appears to be substance in his submissions.

5. By way of an order of the Hon'ble Supreme Court passed on 04.07.2011, to which the present petitioner was the party, the petitioner learnt that the Grievance Committee has no jurisdiction. The Hon'ble Supreme Court, in the above case, had also observed that the Grievance Committee would not direct the reinstatement of the service nor grant a declaration that a contract of the personnel services subsists. In other words, it may be stated that the petitioner gained knowledge about the jurisdiction of the Grievance Committee in 2012. However, instead of approaching the School Tribunal, the petitioner applied to the Education Officer. The reason best known to him was why he chose to approach the Education Officer. The petitioner did not stop there. He again filed one Writ Petition bearing No.8548 of 2011. This Court, on instructions, dismissed the writ petition on 23.10.2012 as withdrawn with liberty to avail of the alternate remedy of

presenting an appeal challenging the order of the termination before the School Tribunal. Again, instead of approaching the School Tribunal, the petitioner had filed another Writ Petition No.8667 of 2013. This Court, by order dated 10.07.2018, again observed that in view of the order in Writ Petition No.8548 of 2011 dated 23.10.2012, the petitioner could not have filed the present petition. The petitioner may take such steps as per the order dated 23.10.2012. With the above observations, the writ petition was disposed of.

6. Thereafter, the petitioner approached the School Tribunal with an application for condonation of delay. Learned counsel for the petitioner has vehemently argued that the petitioner was confused about the jurisdiction of the Court which he had to approach. He has disclosed each fact in the application for condonation of delay preferred before the School Tribunal, Solapur. She has vehemently argued that no prejudice would be caused to the contesting respondents if the delay is condoned. As per the last order dated 10.07.2018, there was a short delay of 17 days. However, the learned Tribunal misread the fact and erroneously held that the appeal was not preferred for about six years. She has vehemently argued that the petitioner had sufficient cause for not preferring the appeal in time. He was contesting various petitions before the various forums. He had not made the

bona fide mistakes. Therefore, the impugned order may be quashed and set aside.

7. Per contra, learned counsel for contesting respondent nos.2 and 4 Mr. Malte has vehemently opposed the petition. He has reiterated the above facts and earlier litigation and pointed out the conduct of the petitioner. He knew well in the year 2011 itself that the remedy was before the School Tribunal only. But he deliberately filed the writ petitions one after another. Considering the way the petitioner filed the petitions, it cannot be believed that he was confused about the jurisdiction of the Court. The impugned order is well reasoned. Learned Tribunal has correctly recorded the rejected the application. That apart, the petitioner had secured a job in another school in 2005. That also deprives him of expecting a lenient view from this Court. The intention of the petitioner is to recover the money. He prayed to dismiss the petition.

8. The record clearly shows that in 2011, the Hon'ble Supreme Court quashed and set aside the order of the Grievance Committee. The petitioner was a party to that SLP. In the year 2011 itself, the jurisdiction of the Tribunal was confirmed against the termination. The reason best known to the petitioner, instead of approaching the Tribunal, is why he preferred to file writ petitions one after another. Lastly, in Writ Petition No.8548 of

2011 dated 23.10.2012, this Court said that the liberty to move before the School Tribunal is granted to the petitioner. The said order was passed based on the statement made by the petitioner. That again goes to show that the petitioner was very well aware that the jurisdiction lies with the School Tribunal only. But again, in 2018, he filed another writ petition. Filing such writ petitions appears deliberate. It may be an intention or advice to him that if the writ petitions are filed, the Court may pass an order considering the delay to be condoned. However, the petitioner was not successful in getting any order from the Court for delay caused in preferring the appeal. There is nothing to believe that the petitioner was confused about the jurisdiction. The submissions made before the Court in Writ Petition No.8548 of 2011 indicate that he knew that the remedy was before the School Tribunal only.

9. Perused the impugned order of the School Tribunal. It is a detailed and well reasoned order considering all facts of the case and the history of the litigation. The Court did not find the grounds to interfere with the impugned order of the learned Presiding Officer, School Tribunal, Solapur. Hence, the petition stands dismissed.

(S. G. MEHARE, J.)