



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION (CIVIL) NO.191 OF 2024
IN WP/2713/2023

PRAKASH RATIRAM PATIL

VERSUS

LATE PANDURANG TOTARAM PATIL SHIKSHAN SANSTHA
THROUGH ITS PRESIDENT AND ORS

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Advocate for Applicant : Mr. Sachin Deshmukh i/b Mr. Reddy
Ajinkya.

Advocate for Respondent Nos.1 & 2 : Mr. Barde Parag Vijay.

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CORAM : S. G. MEHARE, J.

DATE : 24.07.2024

PER COURT :-

1. Heard the respective learned counsels.
2. The respondent/employee had preferred the writ petition No.2713 of 2023 against the order of the School Tribunal. After hearing the respective learned counsels at length, this Court on 04.04.2024 allowed the petition. The matter was remitted to the Management to hold the de novo inquiry from the stage of constituting an inquiry committee strictly as per Rule 36(2)(i) of the Rules, 1981, by granting an opportunity to the respondent/employee to cross-examine the witnesses and lead the evidence, if he desires. The Management was also directed to reinstate the respondent and allow him to continue in active services till the inquiry is

completed against him and the Management passes an adverse order against respondent No.1, if any, after completing the de novo inquiry.

3. The original respondent i.e., the applicant here, has filed the review proceeding contending that this Court, in paragraph No.6 of the order, this Court has recorded the findings about remitting the matter for de novo inquiry. In fact, paragraph No.6 is about the arguments of the learned counsel for the petitioner. He would submit that once the Management admits that there was an error in the inquiry, there shall be no de novo inquiry. However, reading paragraph No.6, there were findings as such. On the contrary, the present respondent argued that Rule 36 of Rules 1981 does not bar appointing the President of the institution as a member of the inquiry committee. Considering the facts of the case and various case laws, the Court recorded the findings on the issues raised before it. Therefore, this Court is not satisfied that it was an error on the face of the record.

4. Secondly, the learned counsel for the applicant again referred to paragraph No.18 of the order under review. After reading paragraph No.18, it has been argued that this Court has recorded the findings that the record *prima facie* reveals

that the allegations against the employee were not sufficient to reduce his rank or remove him from services. In fact, those were submissions of the present applicant and not the finding of the Court. Lastly, learned counsel for the applicant would submit that once the applicant has been reinstated in services, there should be no de novo inquiry.

5. To bolster his arguments, he relied on the case of *Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya and others ; (2013) 10 Supreme Court Cases 324*. The facts of that case were that the inquiry was initiated against the petitioner, and his services were terminated. The Tribunal allowed the appeal, quashed the termination of the appellant's service, and directed the Management to pay the appellant full-back wages. It was the case decided on merit. Herein the case, there was an issue of constituting the inquiry committee. This Court, after appreciating the facts and relevant provisions of law, held that the matter is liable to be remitted to the Management for de novo inquiry from the stage of constituting the inquiring committee. Accordingly, the suspension of the applicant was revoked, and he was directed to be reinstated. There is definitely a difference between quashing the termination of the appellant on merit and

remitting the matter for de novo inquiry. In this case, the applicant was not terminated. He was barely suspended. His services are subject to the outcome of the departmental inquiry. If he succeeded in proving that his termination is illegal, the Tribunal may take appropriate actions. This Court has already taken care of the applicant that he should be reinstated. Learned counsel for the applicant states that he has been reinstated and is getting a full salary.

6. Learned counsel for the respondents submits that the Management has already forwarded the proposal for his salary to the Education Department.

7. Considering the facts of this case, the Court is of the view that the ratio laid down in the case of Deepali is not applicable to this case.

8. The applicant failed to point out *prima facie* errors on the face of the record. The review application is devoid of merit. Hence, stands dismissed.

9. No order as to costs.

(S. G. MEHARE, J.)

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vmk/-