



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.6137 OF 2024**

Mahadrao @ Madhav s/o Pandurang Jadhav,
Age 49 years, Occu: Nil,
R/o Islapur, Tq. Kinwat,
District Nanded.

..Petitioner

Versus

1. The Headmaster,
Shri Fulaji Baba Anudanit Adivasi
Ashram School, Islapur, Tq. Kinwat,
District Nanded.
 2. The President,
Shri Bholenath Adivsai Shikshan
Prasarak Mandal, Waliki (B), Tq. Kinwat,
District Nanded.
 3. The Project Officer,
Akatmik Adivasi Vikas Prakalp,
Kinwat, District Nanded.
 4. The Assistant Commissioner,
Tribal Development Amaravati Division,
Amrawati.
- ..Respondents

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Mr. G. J. Karne, Advocate for Petitioner.
Mr. K. B. Jadhavar, AGP for Respondents-State.

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CORAM : S. G. CHAPALGAONKAR, J.
DATED : 25th JUNE 2024.

ORDER:-

1. The petitioner impugns the order dated 15.12.2023 passed by the Presiding Officer, School Tribunal, Latur below Exhibit-1 in M.A. No.10/2021, thereby rejecting the prayer to condone the delay of 9 years 3 months and 11 days caused in filing the Appeal under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (for short 'M.E.P.S. Act, 1977').

2. Mr. Karne, learned Advocate appearing for the petitioner submits that the petitioner was working as Helper with respondent no.1-School run by respondent no.2. He was appointed against clear and vacant post. However, respondent no.2/President of the Trust compelled him to work in the agricultural land. Consequently, the petitioner lost his health. After going through medical treatment, when he approached respondents refused permission to join. He would submit that although respondent nos.1 and 2 communicated termination order dated 20.10.2016 to Education Officer, such communication was not served upon the petitioner. Consequently, the delay of 9 years 3 months and 11 days has been occurred in filing appeal which is not intentional and needs to be condoned. The School Tribunal adopted hyper technical approach and refused to condone the delay. The petitioner would render remediless, if delay is not condoned.

3. Having considered submissions advanced, it is apparent that the petitioner claims to be appointed as Helper vide appointment order dated 01.03.2005. A copy of communication dated 02.12.2017 addressed by petitioner is placed on record, wherein the petitioner states that while he was working as Helper in the School, because continuous illness he could not attend the school and he may be permitted to join the duties. The first medical certificate attached to the petition shows that the petitioner suffered severe anemia and undergone medical treatment from 2012 to 2013. However, further medical certificates depict different ailments. Pertinently, the petitioner remained absent from the duties since 29.08.2012. The management of the school issued notices asking him to resume the duties, but petitioner failed to respond. His continuous absence was more than three years. As rightly observed by the Tribunal in

terms of Rule 2.36 (3) of the Ashram Shala Sanhita, petitioner is deemed to have abandoned service.

4. The Tribunal has elaborately considered explanation tendered by the petitioner alongwith documents and reached to conclusion that the contentions of the petitioner are fallacious. It is trite that the law of limitation is law of peace and brought in statute book to bring finality to litigation. The statutory provision needs to be given effect. Apparently, the petitioner abandoned service on his accord and after 9 years making attempt to seek revival of his services by instituting proceedings under Section 9 of the M.E.P.S. Act, 1977. The stale claim cannot be restored by condoning exponential, unexplained delay of more that 9 years specially, when it relates to service matter..

5. Taking overall survey of the matter, no case is made out to exercise writ jurisdiction under Article 227 of the Constitution of India. Hence, Writ Petition sans merit and the same is dismissed.

(S. G. CHAPALGAONKAR)
JUDGE