



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

926 WRIT PETITION NO.5840 OF 2024

GOVIND BABURAO JOTKAR

VERSUS

SHRI CHAKRADHAR SHIKSHAN AND SAMAJ PRABODHAN MANDAL AND
OTHERS

...

Mr. R.I. Wakade, Advocate for petitioner

Mr. S.S. Thombre, Advocate for respondent No.1

Mr. A.S. Shinde, AGP for respondent No.3

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CORAM : S.G. CHAPALGAONKAR, J.

DATE : 20th JUNE, 2024

ORDER :

1 The petitioner takes exception to the order dated 21.07.2023 passed below Exh.1 in Miscellaneous Application No.35/2022 by learned Presiding Officer of the School Tribunal, Latur rejecting the application seeking condonation of delay.

2 Mr. R.I. Wakade, learned Advocate appearing for the petitioner submits that the petitioner was appointed as Assistant Teacher with the

respondent, initially on probation for a period of two years with effect from 15.06.2010, however, the respondent – Management orally terminated his services from 26.08.2014. He would submit that, in fact, the petitioner was not paid salary for his service period, therefore, he approached this Court by filing Writ Petition No.10025 of 2014 seeking Mandamus against Management to pay the salary. The said writ petition was disposed of on 02.07.2015 and the Deputy Director of Education was asked to cause inquiry as regards to unpaid wages. The petitioner presented himself before the Deputy Director of Education. In spite of the directions to pay the salary the Management failed to release the same. The Management filed Writ Petition No.14974 of 2017 against the order dated 22.03.2017 passed by the Deputy Director of Education. The petitioner had also filed the Writ Petition No.11753 of 2017 for implementation of the order passed by the Director of Education. Both these writ petitions were heard and again directions were given to Deputy Director of Education to take fresh decision on or before 01.09.2018. The petitioner was required to file Contempt Petition No.518 of 2019 since the Deputy Director of Education had delayed the decision and finally passed the order dated 08.08.2019 directing Management to release the arrears of salary. Accordingly, contempt petition was disposed of. He would further submit that even thereafter Management filed Writ Petition No.11441 of 2019 against the order of Deputy Director of Education dated

08.08.2019. As such petitioner was continuously harassed, even his rightful claim as regards to salary was not entertained. He was not allowed to join the services. Ultimately petitioner filed appeal before the School Tribunal under Section 9 of the M.E.P.S. Act assailing his oral termination. He would, therefore, submit that the petitioner was availing the alternate remedy in pursuance of his grievance and lastly approached the Tribunal. The delay caused in filing appeal is unintentional. The petitioner has already crossed maximum age prescribed for appointment in service. Mr. R.I. Wakade relying upon Judgment of this Court in the case of **Anand Vitthal Shinde vs. Rajarshee Shahu Shikshan Prasarak Mandal** in **Writ Petition No.2314 of 2016** dated 31.08.2016, contends that the petitioner would waive of salary dues for the delayed period, however, his appeal needs consideration on merits.

3 Having considered submissions advanced, it can be noted that the petitioner was well aware about oral termination of his services and he was pursuing the remedies before this Court as well as other authorities for recovery of salary dues, wherein, he candidly accepts that he is not allowed to join the services as such there is otherwise termination. The petitioner was well advised by the Advocates as he approached this Court thrice by filing consecutive writ petitions and contempt petition and also he persuaded the authorities of Education Department. However, he never thought it fit to

approach the School Tribunal, which is the competent authority to deal with the termination of the employees of private schools.

4 There is no explanation in the entire application as to what prevented him from approaching the School Tribunal at earliest opportunity. The School Tribunal has dealt with the contentions of the petitioner in great detail and recorded that no reasonable explanation as has been offered for delay of more than five years in approaching the Tribunal. No fault can be found in approach of Tribunal. It is trite that Law of Limitation is considered as Law of Peace, that ensures threshold closure of State claims. Petitioner is not layman. He is conversant with procedure of law. Exponential delay of five years cannot be justified in facts of this case.

5 In that view of the matter, no case is made out to interfere under Article 227 of the Constitution of India. Writ Petition stands dismissed.

(S.G. CHAPALGAONKAR)
JUDGE