

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2886 OF 2018

Balgonda Gurupad Viveke ...Petitioner

Versus

Chairman, Dnyandhara Shikshan Sanstha,
Mumbai Through Headmaster And Ors. ...Respondents

**WITH
WRIT PETITION NO. 2222 OF 2018**

Ravindra Tukaram Sawant ...Petitioner

Versus

Balgonda Gurupad Viveke And Ors. ...Respondents

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Mr.Subhash V. Gutte, for the Petitioner in WP No.2886/2018 and for Respondent No.1 in WP No.2222/2018.

Mr.Suresh M. Sabrad a/w Mr.Amey Sawant, Ms.Neha Zanje, Mr.Pratik Sabrad for Petitioner in WP No.2222/2018 and for Respondent No.5 in WP No.2886/2018.

Ms.V. S. Nimbalkar, A.G.P. for the Respondent – State.

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CORAM : AVINASH G. GHAROTE, J.

DATE : 24th JULY, 2024

P.C.:

WRIT PETITION NO. 2886 OF 2018

1. Heard Mr. Subhash Gutte, learned counsel for the petitioner.

2. The petition questions the Judgment dated 12.01.2018 passed by the learned School Tribunal, to the extent, it denies the prayer of the petitioner, for back-wages or differences of pay and consequential benefits.

3. The learned counsel for the petitioner submits that since the petitioner was granted promotion, the petitioner would be entitled to the aforesaid benefits.

4. Mr. Suresh Sabrad appears for the learned counsel for the respondent No.5, and supports the impugned order. Though the respondent Nos.1 & 4 are served, none appears. Learned A.G.P. appears for respondent Nos.2 & 3.

5. A perusal of the impugned order would indicate that the reason for denial of back-wages or differences of the pay and consequential benefits by the learned School Tribunal, is on the ground that the respondent No.5 had actually worked on the post of Head Master and therefore had been paid the salary and emoluments for the said post. Though, this Court by an interim order dated 20.02.2018, had granted interim relief in Writ Petition No.2222/2018 which was filed by the present respondent No.5, which was in the nature of stay to the Judgment of the

School Tribunal and though the said interim relief came to be vacated by the order dated 30.07.2018 the same was questioned before the Hon'ble Apex Court in which by an order dated 04.02.2019 status quo was directed to be maintained qua the post of Head Master. Special Leave Petition No.1153 of 2019 by the respondent No.5 came to be dismissed as infructuous in view of the statement that the present petitioner had superannuated. It is an admitted position on record that in spite of the Judgment dated 12.01.2018, the petitioner has never taken charge of the post of Head Master or worked therein, till superannuation. It is the respondent No.5, who has worked as an Head Master and has been paid the emoluments, in view of which, there cannot be two persons working on the same post and drawing salary independently. The respondent No.5, having worked and drawn salary of the post of Head Master, the denial of the claim of the back-wages or differences of pay and consequential benefits, is clearly justified. I therefore do not find any reason to interfere in the present petition, considering the limited nature of challenge raised to the Judgment dated 12.01.2018. The petition is therefore dismissed. No costs.

WRIT PETITION NO. 2222 OF 2018.

6. Mr. Suresh Sabrad learned counsel for the petitioner submits, that in view of dismissal of Writ Petition No. 2886 of 2018, the present petition is rendered infructuous, accepting which Writ Petition No.2222/2018 is dismissed as infructuous.

(AVINASH G. GHAROTE, J.)