

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10638 OF 2018

Shri. Bandu Annasaheb Shrimant Mane ...Petitioner
Versus
The Education Officer (primary) Zilla ...Respondents
Parishad Solapur And Ors.

Mr. Ashok Tajane for the Petitioner.
Mr. Anand Kulkarni for Respondent No.1.
Ms. Rupali Shinde, AGP for Respondent Nos. 2 and 3/State.
Ms. Rekha Musale for Respondent No.4.

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**CORAM : NITIN JAMDAR AND
M.M. SATHAYE, JJ.**

DATE : 21 MARCH 2024

P.C. :

. The Respondent/Management submitted the proposal of Petitioner's appointment on 6 April 2015, which was rejected by order dated 27 June 2016, by the Education Officer stating that Petitioner's appointment was on a post for reserved category as there was a backlog and the Petitioner did not belong to the reserved category. The reference was also made to the order of the same day which granted approval stating that Rules and Regulations regarding filling of the reserved post must be scrupulously followed.

2. The impugned order refers of the earlier order of same day and states that this aspect was overlooked and therefore, the earlier order was recalled. Since, the first order itself had referred to the stipulation of filling up the backlog and proceeded on the fundamental errors, this does not amount to a review, but only a correction of an obvious mistake. Therefore, not much capital can be made of the subsequent order recalling the first order.

3. According to the Petitioner, the Management had made several attempts for filling up the reserved category post and thereafter proceeded to appoint the Petitioner. This is an explanation that needs to be given by the Respondent/Management whose proposal is rejected. The Management has not filed the petition challenging the order. We are informed that a vacant post has arisen in open category. We are not inclined to convert the proposal dated 6 April 2015 into that of open category. It is open to the Respondent/Management to submit a proposal for the vacancy in the open category which is stated to have arisen. Once such proposal is sent, the Education Officer will take an appropriate decision as per law.

4. Since the Respondent-Management has not challenged the impugned order, we reiterate settled law that Management being the employer, it is its primary responsibility to pay the salary dues to the staff employed by it.

5. When the issue of pensionary benefits arises, as to from which date the Petitioner came to be appointed, the same is kept open to be considered at appropriate stage.
6. The Writ Petition is disposed of in the aforesaid terms.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)