

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

WRIT PETITION NO. 9920 OF 2024

Shirur Shikshan Prasarak Mandals
Manikchand Dhariwal Through Its General
Secretary And Anr. ...Petitioners
Versus
Rakesh Singh & Others ...Respondents

**WITH
WRIT PETITION NO. 9921 OF 2024**

Shirur Shikshan Prasarak Mandal
Manikchand Dhariwal Through Its General
Secretary And Anr. ...Petitioners
Versus
Kawale Shailesh Shivaji & Others ...Respondents

**WITH
WRIT PETITION NO. 9926 OF 2024**

Shirur Shikshan Prasarak Mandals
Through Its General Secretary And Anr. ...Petitioners
Versus
Pankaj Ramlal Malviya & Others ...Respondents

**WITH
WRIT PETITION NO. 9927 OF 2024**

Shirur Shikshan Prasarak Mandals
Manikchand Dhariwal Institute Through
Its General Secretary And Anr. ...Petitioners
Versus
Deshmukh Mangesh Narayan & Others ..Respondents

**WITH
WRIT PETITION (ST) NO. 19062 OF 2024**

Rakesh Singh	...Petitioner
Versus	
S.S.P. Mandals Manikchand Dhariwal Institute Of Management And Rural Technology & Others	...Respondents

**WITH
WRIT PETITION (ST) NO. 19063 OF 2024**

Kawale Shailesh Shivaji	...Petitioner
Versus	
S.S.P. Mandals Manikchand Dhariwal Institute Of Management And Rural Technology & Others	...Respondents

**WITH
WRIT PETITION (ST) NO. 19065 OF 2024**

Pankaj Ramlal Malviya	...Petitioner
Versus	
S.S.P. Mandals Manikchand Dhariwal Institute Of Management And Rural Technology & Others	...Respondents

**WITH
WRIT PETITION(ST) NO. 19066 OF 2024**

Deshmukh Mangesh Narayan	...Petitioner
Versus	
S.S.P. Mandals Manikchand Dhariwal Institute Of Management And Rural Technology & Others	...Respondents

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Ms. Kumud Bhatia, for the Petitioner in WP/9920/2024, WP/9921/2024, WP/9926/2024 and WP/9927/2024 and for Respondent No.2 in WP (St)/19062/2024, WP(St)/19063/2024, WP(St)/19065/2024 & WP(St)/19066/2024.

Ms. V. R. Raje, AGP, for the Respondent-State in WP/9920/2024, WP(St)/19062/2024, WP/9926/2024 & WP(St)/19065/2024.

Mr. P. G. Sawant, AGP, for the Respondent-State in WP/9921/2024, WP/9927/2024, WP(St)/19063/2024 and WP(St)/19066/2024.

Mr. Sumit Sonare, for the Petitioner in WP (St)/19062/2024, WP(St)/19063/2024, WP(St)/19065/2024 & WP(St)/19066/2024 and for Respondent No.1 in WP/9920/2024, WP/9921/2024, WP/9926/2024 and WP/9927/2024.

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CORAM : AVINASH G. GHAROTE, J.
DATE : 23rd JULY, 2024

P.C.:

**WRIT PETITION (ST) NO. 19062 OF 2024 WITH
WRIT PETITION (ST) NO. 19063 OF 2024 WITH
WRIT PETITION (ST) NO. 19065 OF 2024 WITH
WRIT PETITION (ST) NO.19066 OF 2024 :**

1. Learned counsel for the petitioners, upon instructions seeks to delete respondent Nos. 1, 3 to 6 & 8 from the array of respondents. Ms. Bhatia appears for the respondent No.2. Learned A.G.P appears for respondent No.7.
2. These petitions are by the employees questioning the order dated 29.04.2024 passed in appeals filed by them before the

University and College Tribunal Pune, which denies them the relief of the outstanding salary from October-2016 to April-2017 with interest.

3. Learned counsel for the respondent No.2 in these proceedings, has expressed the willingness of respondent No.2, to make payment of the salary for the aforesaid duration, to the petitioners, for which she has tendered across the bar a statement as to what is the salary due to the petitioners along with the breakup. The statement is taken on record and marked as “X” for the purpose of identification.

4. The learned counsel for the petitioners does not dispute the calculations made in the table at “X” and the fact that these amounts include the cost of Rs.10,000/- granted to the petitioners, by the learned University and College Tribunal and interest at the rate of 6% per annum and that the amounts shown in the last column below the caption ‘signature’, represent the entire amount which is receivable by the petitioners and nothing further remains due and payable to them on any count whatsoever by the employer. He also acknowledges the receipt of the cheques issued by the respondent No.2 for the sums as

indicated in the last column of the table at “X” and agrees to handover them to the respective petitioners. The learned counsel for the petitioners upon instructions, undertakes that these cheques would be honoured when presented for realization. Accepting the above position, the petitions are disposed off in terms of what has been recorded above and the statement at “X”.

WRIT PETITION NO. 9920 OF 2024 WITH
WRIT PETITION NO. 9921 OF 2024 WITH
WRIT PETITION NO. 9926 OF 2024 WITH
WRIT PETITION NO. 9927 OF 2024 :

5. The learned counsel for the petitioners, upon instructions seeks deletions of the respondent Nos.2 & 4 from the array of respondents. The statement is accepted. Deletion be carried out forthwith.

6. These petitions are by the Management against the Judgment dated 29.04.2024, in so far as it directs payment of back-wages, from 01.05.2017 to 30.06.2022, vide operative order (C). Learned counsel for the petitioners contends, that there is no averment in the appeal filed by the respondents, to indicate they they were not gainfully employed, during the aforesaid duration.

Not only that, she contends, that the Memo of Appeal (Page-152), itself indicates the occupation of the respondent No.1 to be service, which in all the appeals which is would indicate, that the respondent No.1 in all these petitions were gainfully employed, in spite of which they have suppressed that position, in order to obtain an order of back-wages from the Tribunal.

7. A perusal of the Memo of Appeal in all these four petitions before the University and College Tribunal would indicate that the occupation of the respondent No.1 is shown to be service, considering which, it was necessary for them, to have disclosed the nature of the employment, the emoluments, which they were deriving from such employment, which were factors necessary to be taken into consideration by the learned Tribunal for determining the entitlement of the respondent No.1 for back-wages. Non disclosure therefore in my considered opinion of this position, which was within the knowledge clearly makes them disentitled to the reliefs claimed. A perusal of the impugned Judgment in appeal would also indicate that but for what has been stated in paragraph-44 (Page-101) there is no consideration of the claim for back-wages and it is clearly apparent that it has

been granted merely for the sake of asking, which could not have been done, considering the above position.

8. Mr. Sumit Sonare, learned counsel for the contesting respondents, agrees to the position that the appeals filed by the respondents before the University and College Tribunal, indicates in the cause title that they were employed, and do not disclose the nature of the employment or the emoluments which were being received by them. He also admits that, no materials has been placed on record before the learned University and College Tribunal, to indicate the entitlement of back-wages, on the ground that they were not otherwise employed.

9. In view of this, the impugned Judgment in so far as it directs grant of back-wages vide operative order (C) cannot be sustained, and is hereby quashed and set aside. These petitions are allowed in the above terms.

(AVINASH G. GHAROTE, J.)