



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.2662 OF 2024

[Gajanan S/o Bisanji Vaidya **VERSUS** The Deputy Director of Education, Nagpur and others]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.

Court's or Judge's order

Shri P.V. Thakre, Counsel for Petitioner.

Shri S.M. Ghodeswar, Assistant Government Pleader for
Respondent Nos.1 and 2.

Shri S.S. Ghate, Counsel for Respondent Nos.3 and 4.

CORAM : NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.

DATE : 10th JULY, 2024

P.C. :

1. In pursuance of the order passed by this Court on 24-6-2024, Shri S.S. Ghate, learned counsel, has put in his appearance for the respondent Nos.3 and 4-employer, with whom the petitioner is working as a Peon.

2. According to Shri Ghate, post-absorption of the services of the petitioner, the service record is maintained, however past record is not available with the said employer as regards the earlier service.

3. As against above, Shri P.V. Thakre, learned counsel for the petitioner, would invite our attention to the order of de-recognition passed by the respondent No.1-Deputy Director of Education, Nagpur Division, Nagpur on 24-8-2011, wherein the directions were issued to the respondent No.2-Education Officer (Secondary), Zilla Parishad, Nagpur to take custody of the entire School record, including that of the employees, like the petitioner. He

would also invite our attention to the steps taken by the Education Officer (Secondary), as reflected in the communication dated 1-8-2011, produced at Annexure-8 to this petition. In this background, he has urged that if the respondents condone break in service, the claim of the petitioner will suffice, as in fact the petitioner is not claiming any back wages in view of the undertaking given by him, as recorded in Paragraph 5 of the judgment delivered by this Court in Writ Petition No.2256 of 2014 on 6-10-2015. Said Paragraph 5, being relevant, is reproduced below :

“5. The learned advocate for the petitioner has placed on the record an affidavit sworn by the petitioner on 5th October, 2015 stating that if the delay in filing the appeal is condoned and the Tribunal is directed to consider the appeal filed by the petitioner on merits, the petitioner will not claim the arrears of salary. It is further stated that the school administered by the respondent-society is de-recognized and if the petitioner succeeds in the appeal, the petitioner would be entitled for absorption in any other school.”

4. In this background, we deem it appropriate to permit the petitioner to submit the proposal with whatever documents are available in his custody, including that of photocopies thereof, for condonation of break in service, to the respondent Nos.3 and 4. The respondent Nos.3 and 4, in turn, shall forward the said proposal to the Education Officer (Secondary) and the Deputy Director of Education. The said Authorities, since are custodian of the record in relation to the past employment of the petitioner, as could be inferred from the communications produced at Annexures-7 and 8 to this petition, viz.

dated 24-8-2011 of the Deputy Director of Education, Nagpur Division, Nagpur and dated 1-8-2011 of the Education Officer (Secondary), Zilla Parishad, Nagpur, respectively, shall decide the issue of condoning break in service of the petitioner as expeditiously as possible and in any case within a period of three months from the date of receipt of proposal from the respondent Nos.3 and 4.

5. Shri Thakre submits that the petitioner shall be submitting the proposal/request for condoning break in service within a period of four weeks from today and Shri Ghate submits that the said proposal/request shall be forwarded to the Education Officer (Secondary), Zilla Parishad, Nagpur within a period of two weeks from the date of receipt of the same.

6. In view of aforesaid, nothing remains to be considered at this stage of the proceedings. Hence, the petition stands disposed of.

7. Needless to clarify that the petitioner shall be at liberty to approach this Court again in case the respondents have passed an order adverse to him.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)