



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition (WP) No. 1803 of 2021

Late Bapurao Maharaj Bahuudeshiya Shikshan Sanstha, Ramtek Tq.
Murtizapur, District Akola, through its President and another

Versus

Ajay S/o Ramesh Bedekar and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Ms. Radhika Bajaj, Advocate for the petitioners.
Shri G.R.Sadar, Advocate for the respondent no.1.
Shri I.J.Damle, AGP for the respondent nos. 2 and 3.

CORAM : ANIL S. KILOR, J.

DATED : 3rd JANUARY, 2024.

Heard.

2. This writ petition takes exception to the judgment and order dated 5th February, 2021 passed by the School Tribunal, Amravati Division in Appeal No. 2 of 2018, allowing the appeal and thereby setting aside the communications dated 9th January, 2018 and 8th January, 2018, terminating the services of the respondent no.1 and thereby further directing the petitioners to reinstate him on his former post and pay the full backwages and other emoluments from the date of termination and till the date of reinstatement.

3. The petitioner no.2 published an advertisement on 8th February, 2011 calling applications for a post of Assistant Teacher. In response to which, the respondent no.1 applied and on selection he was appointed on probation. His services were approved by the Education Officer and on completion of probation period successfully he attained the status of deemed confirmed employee.

4. On 10th January, 2018, he was prohibited from signing the muster roll. On inquiry by him with the petitioners, he was served a communication dated 9th January, 2018 informing that his services are put to an end.

5. Feeling aggrieved by the same, the respondent no.1 approached the School Tribunal by filing an appeal under Section 9 of Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977.

6. It is the case of the petitioner that the respondent no.1 was not lawfully appointed. It is the further case of the petitioner that one Shri Rathod who was working as a Assistant Teacher was terminated and in his place respondent no.1 was appointed. Thereupon, Shri Rathod filed an appeal before the School Tribunal which came to be allowed and the writ petition filed

against the same, came to be dismissed on 28th November, 2017.

7. Shri Shete, another Assistant Teacher, the junior most in seniority list, considering the above referred situation approached to this Court by filing writ petition no. 6623 of 2017 seeking protection of his services being terminated from. On receiving protection from this Court to Shri Shete, the Management thought it lawful to terminate the services of the second most junior teacher i.e. respondent no.1.

8. The learned School Tribunal has considered Rule 26 which relates to retrenchment and has found that the retrenchment was effected without giving mandatory notice of three months and the principle of seniority was not followed.

9. It is further observed that as per clause (ii) of Clause 2, it was incumbent on the part of the petitioner management that, they should obtained prior approval of the Education Officer. It has also observed that the despite the specific order of Education Officer to terminate the junior most employee the respondent no.1 came to be retrenched. In the circumstances, the learned School Tribunal has recorded the findings that the termination of the respondent no.1 was illegal and accordingly, the appeal was allowed.

10. Considering the facts and circumstances of the present case and after going through the findings recorded by the learned School Tribunal, I do not find any error committed by the learned School Tribunal. Accordingly, the writ petition is dismissed.

Civil Application (CAW) No. 2620 of 2023

In view of the order passed in this writ petition, this application does not survive. Hence, the same is disposed of accordingly.

[ANIL S. KILOR, J.]