



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

WRIT PETITION NO.5214 OF 2024

Vithoba s/o Runjaji Gawai ... Petitioner

- Versus -

State of Maharashtra and others ... Respondents

Mr. Sunil Bhuyar, Advocate for the petitioner,
Mr. S.M. Ukey, Additional Govt. Pleader for respondent nos.1, 2 & 5.

CORAM : BHARATI DANGRE &
ABHAY J. MANTRI, JJ.

DATE : OCTOBER 01, 2024.

P.C. :

The law aids the vigilant and not those who sleep over their rights and the case of the petitioner falls within the sweep of the maxim "*vigilantibus non dormientibus jura subveniunt*" and despite of our sympathy with the petitioner, we would not, assist him in any manner.

2. The petitioner - Vithoba Runjaji Gawai has approached this court with the following principal reliefs in terms of prayer clauses (i) and (ii) :

(i) Direct to the respondent no.2-Education Officer and respondent No.3-President/Secretary Friends Education Society as well as Respondent No.4-Headmaster of Yashwantrao Chavan High School, Rajegaon, Tahsil Sindkhed Raja, Dist-Buldhana, for paying arrears of salary from 6/10/1997 i.e. date of retirement from service till 17/12/2003 with interest @ 18% per annum.

(ii) Direct to the respondent no.2-Education Officer & respondent No.3-President/Secretary Friends Education Society as well as Respondent No.4-Headmaster of Yashwantrao Chavan High School Rajegaon, Dist-Buldhana, to pay pensionary benefits i.e. gratuity, provident fund as well as encashment of leave and further direct to forward proposal of pension of petitioner to the office of Accountant General-II, Civil Lines, Nagpur.

3. In addition, the petitioner also seek the relief like withdrawal of the recognition of the respondent no.4-School for non compliance of the directions issued by the Education Authority and also seek payment of interest for the delay in releasing salary as well as forwarding his pension proposal.

4. To ascertain the maintainability of this petition, we must delve deep into the background of the facts.

It is the claim of the petitioner that the respondent no.3-Management appointed him on the post of Headmaster in the respondent no.4-School on 28.06.1993 and the Education Officer granted approval to his appointment on 06.02.1995 and also on 29.01.1996, when the school was admitted to grant-in-aid. It is the specific contention of the petitioner that on completion of probation, he became a permanent employee. However, without conducting an

enquiry, as contemplated under the Maharashtra Employees of Private School (Conditions of Service) Act, by the order dated 06.10.1997, the Management terminated his services.

5. This gave a cause of action to the petitioner to assail his termination by filing an appeal before the School Tribunal, which set aside the termination order and directed reinstatement of the petitioner, with continuity in service.

The order of the School Tribunal was challenged by the Management in Writ Petition No.3490/2001 and the statement was made that the order of termination was served on the petitioner instead of order of suspension and, therefore, the matter was once again remanded back to the School Tribunal. On 09.03.2010, the School Tribunal dismissed the Appeal No.185/1997 filed by the petitioner on the ground that it lacked jurisdiction to entertain the grievance against the order of suspension.

6. From this date, the petitioner continued to make representations to various authorities and we find some of these representations on record being annexed at Annexures-I and J and ultimately on 22.02.2000, the Section Officer of the School Education Department, in reference to his letter dated 23.12.1999, communicated him that the Competent Authority in this regard is the Education Officer (Secondary), Zilla Parishad and he may take action accordingly.

Once again, he preferred representation and the Deputy Director of Education on 16.06.2002, who directed the Education Officer (Secondary) to look into the grievance. Thereafter, in 2002, there was some follow up at the end of the Deputy Director of

Education, but all the while, the petitioner kept mum and it is almost two decades thereafter that, he approached this court praying for the reliefs, which we have reproduced above.

7. The explanation of the petitioner, for approaching us belatedly, is that he was making representations and he was unaware of the proceedings to be instituted and this argument has not impressed us at all, as the petitioner was conscious of his rights and he approached the School Tribunal on two occasions, but certainly he kept mum, after he was informed that there was no dismissal of his service but he was placed under suspension. He is unaware, whether the departmental enquiry initiated against him has been taken to its logical end, as what we have noted is that before suspending him, the Management has sought permission from the Education Officer for conduct enquiry against him.

8. The law assists only those who exercise their right within time and what the petitioner seeks is payment of arrears of his salary from 06.10.1997, till he assumes that he has been retired on attaining the age of superannuation on 30.04.2002, but unfortunately this assertion is merely an assumption as he is unaware as to what has happened to the departmental enquiry.

9. We are even not inclined to issue notice and call upon the respondents, to respond, as we feel that here is a person, who slept over his rights from the date when the School Tribunal dismissed his appeal against suspension and despite the remedy being available to him to file appropriate proceedings before the Competent Court, he kept on making repeated representations and

received response that the concern Authority is looking into the same.

We fail to understand what stopped him from approaching this Court for last two decades, when necessary directions were issued to look into his representations. He has approached this court on 26.04.2024 and we deem it appropriate to reject his petition on the ground of delay as, though in exercise of our power under Article 226 of the Constitution of India, we may not be strictly bound by the law of limitation, but the unexplained delay and that too, a long delay of two decades definitely do not warrant consideration of the writ petition and hence, we are convinced that we need not look into the merits of the matter and dismiss the petition on the ground that it suffers from delay and laches and there is no plausible explanation that is afforded, except saying that the petitioner was unaware of his rights.

The writ petition is dismissed, no order as to costs.

(ABHAY J. MANTRI, J.)

(BHARATI DANGRE, J.)