

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

WRIT PETITION NO.4363/2019

Shri Kishnakumar s/o Babarao Kakpure
Vs.

The Commissioner, Handicap Welfare Commissionerate, Pune and others

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

Court's or Judge's orders

Shri G.G. Bade, Advocate for petitioner
Shri A.V. Palshikar, AGP for respondent No.1
Shri B.N. Jaipurkar, Advocate for respondent Nos.3 and 4

**CORAM : AVINASH G. GHAROTE AND
SMT. M.S. JAWALKAR, JJ..**

DATED : 25/10/2024

1. Heard Shri G.G. Bade, learned Counsel for petitioner, Shri A.V. Palshikar, learned Assistant Government Pleader for respondent No.1/State and Shri B.N. Jaipurkar, Advocate for respondent Nos.3 and 4.

2. The petition questions the communication dated 12/13.04.2018 issued by the respondent No.1 (page 25), by which the first SEP upon completion of 12 years has been refused to be granted to the petitioner on the ground that upon deduction of the period, during which the school was closed, the period of 12 years is not completed. Reliance is placed upon Government Resolution dated 27.01.2004 (page 39). However Clause-3 of the Government Resolution itself indicts that, for the duration of break-in-service, on account of the closure of the school, the same would not be considered. As such for the purpose of considering continuity of service, the same would be

considered for the purpose of determining and notional continuity for granting salary and other benefits.

3. In that view of the matter, we do not see any reason to sustain the impugned order, the same is, therefore, hereby quashed and set aside and it is held that petitioner is entitled for the first SEP on account of which, the recovery is held to be bad in law and the communication dated 02.05.2019 (page 26) proposing recovery is also hereby quashed and set aside.

4. The Writ Petition is allowed in the above terms. No order as to costs.

(SMT. M.S. JAWALKAR, J.) (AVINASH G. GHAROTE, J.)

R.S. Sahare