



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

Writ Petition (WP) No. 8118 of 2022

Vrundavan Shikshan Ba. Bahhuddeshiya Sanstha, Chohotta (Bazar)
through its President

Versus

Vishnu Onkarrao Gondchawar and another

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

Court's or Judge's Order

Shri P.S.Patil, Advocate for the petitioner.

Shri V.K.Paliwal, Advocate for the respondent no.1.

Shri Alap Palshikar, AGP for the respondent no.2/State.

CORAM : ANIL S. KILOR, J.

DATED : 15th APRIL, 2024.

Heard.

2. The Petitioner - Management who was the respondent before the School Tribunal, Amravati, raises a challenge to the judgment and order of the School Tribunal, Amravati dated 13th October, 2022, by way of present writ petition.

3. The learned School Tribunal, Amravati vide judgment and order dated 13th October, 2022 partly allowed the appeal and thereby set aside the order of termination w.e.f 19th April, 2021 and directed the petitioner to re-instate the respondent no.1 on his

former post with backwages. The learned School Tribunal further granted liberty to the Management to hold *de novo* inquiry by following due procedure of law.

4. This Court vide order dated 22nd December, 2022 granted stay to the payment of backwages, however, there was no stay to hold fresh inquiry. In the circumstances, the Management-petitioner proceeded with the fresh inquiry and on conclusion of the same, terminated the services of the respondent no.1 on 1st August, 2023. The same is subject matter of challenge before School Tribunal, Amravati vide appeal No. 20 of 2023 filed by the respondent no.1.

5. In the circumstances, as the question of backwages relates back to the original order of termination, the jurisdiction lies with the learned School Tribunal, Amravati to decide the question of backwages from the date of first termination i.e. 19th April, 2021, in view of the judgment of the Hon'ble Supreme Court of India in the case of *Bharat Heavy Electricals Limited Vs. Umesh Eknath Agalawe and others*¹ and *Chairman-cum-Managing Director, Coal India Limited and others Vs. Ananta Saha and others*².

6. In the circumstances, as the question whether the employee would be entitled to the back

1 (2021) 11 SCC 55

2 (2011) 5 SCC 142

wages and other benefits from the date of his dismissal to the date of his reinstatement if ultimately ordered, should invariably be left to be decided by the authority concerned according to law, after the culmination of the proceedings and depending on the final outcome. If the employee succeeds in the fresh inquiry and is directed to be reinstated, the Management should be at liberty to decide according to law how it will treat the period from the date of dismissal till the reinstatement and to what benefits, if any and the extent of the benefits, he will be entitled.

7. If the outcome of the inquiry resulted into termination of the petitioner, the School Tribunal can decide the question of backwages from the initial termination i.e. 19th April, 2021. Accordingly, the writ petition is disposed of.

[ANIL S. KILOR, J.]