



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH

WRIT PETITION NO. 23 OF 2015

- 1] Progressive Education Society,
through its Secretary, Hinganghat,
Tah. Hinganghat, District – Wardha.
- 2] Chunnilalji Kataria Primary School,
through its Headmaster,
Shivaji Ward, Hinganghat,
Tah. Hinganghat, District – Wardha.

...PETITIONERS

Versus

- 1] Rajendra Damodhar Atkar,
R/o Ram Nagar Ward, Hinganghat,
Tah. Hinganghat, District – Wardha.
- 2] The Education Officer (Primary),
Zilla Parishad, Wardha.

...RESPONDENTS

Shri P.P. Thakre, Counsel for the petitioners.
Shri S.D. Chande, Counsel for respondent no.1.
None for respondent no.2.

WITH

WRIT PETITION NO. 147 OF 2015

- 1] Progressive Education Society,
through its Secretary, Hinganghat,
Tah. Hinganghat, District – Wardha.
- 2] Chunnilalji Kataria Primary School,
through its Headmaster,
Shivaji Ward, Hinganghat,
Tah. Hinganghat, District – Wardha.

...PETITIONERS

Versus

- 1] Ku. Nalanda Ramdasji Raut,
R/o Mahatma Fule Ward, Hinganghat,
Tah. Hinganghat, District – Wardha.
- 2] The Education Officer (Primary),
Zilla Parishad, Wardha.

...RESPONDENTS

Shri P.P. Thakre, Counsel for the petitioners.
Shri S.D. Chande, Counsel for respondent no.1.
None for respondent no.2.

CORAM : ANIL L. PANSARE, J.

DATE : JUNE 10, 2024

ORAL JUDGMENT :

Rule. Rule made returnable forthwith. Heard finally
by consent of the learned Counsel for the parties.

2] Respondent no.1, in both the petitions, were
appointed as Assistant Teacher by petitioner no.1 – Society. The
appointments were made in petitioner no.2 – School, run by
petitioner no.1. The School is admitted to grants-in-aid facility
from the State Exchequer. Respondent no.1, in both the
petitions, will be hereinafter referred to as ‘teachers’.

3] In the year 2011, the teachers were served with a show cause notice by the Headmaster. Initially, the teachers were punished by Headmaster by stopping their one increment. Thereafter, the Management decided to hold a departmental enquiry. Accordingly, charge-sheet was served upon the teachers, and after concluding the same, the teachers were found guilty of the charges and accordingly, their services were terminated.

4] The teachers challenged the termination order before the School Tribunal. The Tribunal found substance in the challenge and by the impugned judgment, the order of termination was set aside. The petitioners were directed to reinstate the teachers on their original posts with continuity in service and were further directed to pay full back wages within one month.

5] The petitioners are aggrieved by the impugned judgment passed in favour of teachers and, hence, the present Writ Petitions.

6] Having heard both sides and having gone through the judgment passed by the School Tribunal, it appears that the teachers were served with a show cause notice dated 28/1/2011 alleging various charges against them, and on the basis of the said show cause notice, penalty of withholding one increment was imposed. Thereafter, charge-sheet was served upon the teachers alleging identical allegations. The School Tribunal was of the view that the teachers cannot be punished twice for the same allegations. Accordingly, the School Tribunal has set aside the order of termination.

7] The learned Counsel for the petitioners does not dispute that the charges levelled vide notice dated 28/1/2011 and the charge-sheet served in August – 2011, were identical. He however submits that the Headmaster, in the administrative capacity, has imposed minor penalty of withholding one increment. The Management, thereafter, thought it necessary to proceed against the teachers for inflicting major penalty. According to the learned Counsel for the petitioners, the Management is empowered to do so in terms of the

Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (for short “Rules of 1981”).

8] I have gone through the relevant Rules and do not find any Rule which supports the above contention. Rule 28 of the Rules of 1981 provides for removal or termination of service. The grounds of termination are provided in sub-rule (5). Rule 29 provides for penalties, which includes withholding of an increment for a period not exceeding one year as also termination of service. Rule 31 classifies penalties as major and minor penalties. Rule 32 provides procedure for imposing minor penalties, whereas Rule 33 provides procedure for inflicting major penalties.

9] Thus, various penalties are provided under the Rules where an employee is found guilty of misconduct, moral turpitude, willful and persistent neglect of duty, incompetence, etc. The Rules further provide for procedure to be followed for imposing minor and major penalties.

10] As noted earlier, the teachers suffered minor

penalty when their increment was withheld. Thus, out of various penalties provided under Rule 29, the penalty of withholding increment was imposed. In that sense, the petitioners were of the view that the teachers were guilty of charges, which would attract minor penalty and not a major penalty. Once such view is taken, it will be impermissible for the Management to initiate yet another procedure for inflicting major penalty on imaginary ground that Headmaster is one authority and Management is another and, therefore, can take different view and impose different penalties for identical charges. The School Tribunal, therefore, has rightly held that the teachers cannot be punished twice for same charge.

11] I do not, therefore, find any reason to interfere with the impugned judgments. The petitions are accordingly dismissed. Rule is discharged.

JUDGE

Sumit