



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

927 WRIT PETITION NO. 1420 OF 2017

RAVINDRA AMBADAS GORWADKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.S.R. Barlinge, Advocate for the petitioner.
Mr.S.P. Joshi, AGP for respondent Nos. 1 and 4.
Mr.R.J. Godbole, Advocate for respondent No.3.

CORAM : KISHORE C. SANT, J.
DATE : 07.01.2025

PC :-

01. The petitioner has challenged an order dated 06.06.2016 passed by the learned Presiding Officer, School Tribunal, Aurangabad Division, Aurangabad dismissing his appeal bearing No.38 of 2012, challenging his otherwise termination.

02. Respondent No.1 is the State of Maharashtra. Respondent Nos.2 and 3 are Head Master and President of the management respectively. Respondent No.4 is an Education Officer (Secondary), Zilla Parishad, Aurangabad. Respondent Nos. 5 and 6 are other Assistant

Teachers working in the same school.

03. It is case of the petitioners that he was appointed as an Assistant Teacher by respondent No.4 by following due process and against clear vacant post of Assistant Teacher by order dated 01.07.2005. He was paid honorarium as that time the school was on non-grant basis. Initially the petitioner was appointed on probation. Even after completion of probation period, he was not made permanent. It is his further case that though respondent Nos.5 and 6 were appointed after the petitioner, they were made permanent. However, the petitioner was not made permanent. The respondents, however, did not allow the petitioner to join school or to resume duties from 18.09.2012, orally communicating that he has been removed from the school. In spite of insistence, the school authorities refused to give termination order in writing. The petitioner, therefore, approached the School Tribunal, Aurangabad with a case that his services are terminated without following due process of law and without any enquiry. He prayed for quashing and setting aside the termination and for reinstatement along with back wages and continuity of service with consequential benefits.

04. It is defence of the Head Master and the Management that

the petitioner was never duly appointed as Assistant Teacher and thus he has no locus to file the appeal. There is no question of terminating services. No advertisement was issued for the post. No selection process was undertaken. Respondent Nos.5 and 6 were appointed on 01.09.2005 and 27.11.2006 respectively; whereas the petitioner was appointed on 02.07.2008 against one unsanctioned post on consolidated salary. Since other respondents were seniors, their proposals were sent for approval. The Education Officer granted approval to their services. It is, thus, denied that the petitioner was appointed on 01.07.2005. They specifically denied that from 18.09.2012 the services of the petitioner are terminated. On the contrary, it is the stand that the petitioner himself left the school without any intimation and prayed for dismissal of the appeal.

05. Before the School Tribunal, there was no material placed showing that the petitioner was selected by following due process of law. The petitioner produced on record one experience certificate issued by the management dated 13.04.2012. However, same was denied by the management. The certificate was sent for obtaining expert's opinion. The hand-writing expert opined that the signature on the certificate is not of respondent No.2 i.e. Head Master. However, the petitioner denied the

report. The seniority list which was submitted by the petitioner also shows appointment of the petitioner as 02.07.2008. Another document is produced by the petitioner showing that he had undergone training during the period from 12.12.2012 to 16.12.2012. He denied the report of hand-writing expert. The management brought on record that there were only five posts in the school, out of which three posts were for open category and two for reserved category. Though one of the teachers appointed against reserved category left the school, the petitioner could not have been accommodated against that post. The petitioner also had submitted written arguments.

06. The learned Presiding Officer mainly considered that the petitioner failed to produce on record any material to show that he was duly appointed on clear vacant post in the year 2005. Even appointment order is not produced on record. The experience certificate is not proved as issued by the Head Master. So far as certificate of training is concerned, the Tribunal considered that the said training was from 12.12.2012 till 16.12.2012, whereas case of the petitioner himself is that he was terminated from 18.09.2012. So, there is no question of relying on the certificate. As regards seniority list, it is considered that the appointment of the petitioner at the most is shown from 02.07.2008 and

the same is against the stand taken by the petitioner. In the year 2008, there were only two posts of Assistant Teachers for open category persons and both were filled in. Thus, on all these counts, the learned Presiding Officer dismissed the appeal.

07. It is mainly argued by learned Advocate Mr. Barlinge for the petitioner that the petitioner was appointed to the School and there is no dispute about the same. His services were terminated orally. It is case of the management that the petitioner left the school on his own. There is nothing on record to show that the management ever issued notice to the petitioner for absenteeism. The date of termination is immaterial. The experience certificate and the letter sending the petitioner for training is sufficient to show that the petitioner was in service. Even the respondents accept that at least in 2008, the petitioner was in service and his name also appears in the seniority list. Under such circumstances, it was incumbent to hold enquiry before termination.

08. As against this, the learned Advocate for respondent Nos.2 and 3 vehemently opposed the petition. He submits that the petitioner has utterly failed to show that he was appointed by following due process of law. No particulars of publishing of advertisement and calling for

interview are given. From the record it is shown that no post was available so as to appoint the petitioner in the school. In the prayer of the appeal memo itself date of termination is given as 18.09.2012. Considering the date and the period of training, it is clear that the date given of alleged termination is imaginary.

09. This Court has gone through the judgment and order passed by the learned Presiding Officer. The judgment and the documents produced along with petition clearly show that the petitioner could not produce any material to show that he was duly appointed as Assistant Teacher by following due process of law. Even the date of alleged termination appears to be imaginary. On one hand it is stated that the petitioner was terminated orally on 18.09.2012; whereas the petitioner also relies on the document that he undergone training from 12.12.2012 till 16.12.2012, when in-fact the appeal itself was filed on 16.10.2012. Further fact which creates doubt about so called experience certificate is that the hand-writing expert has opined that the signature on the said certificate does not match with the signature of the Head Master. Thus, the petitioner failed even on this count.

10. Considering all the above, this Court finds that no case is

made out calling for interference at the hands of this Court. The petition is, therefore, dismissed with no order as to costs.

[KISHORE C. SANT, J.]