

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

944 WRIT PETITION NO. 3611 OF 2023

Jivan Vikas Shikshan Sanstha Through Its Secretary Sunil Madukarrao
Chavan And Another

VERSUS

Narayan Mariba Chavan And Another

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Mr. P. P. More - Advocate for the Petitioner

Mr. A. D. Wange - AGP for State

Mr. M. P. Tripathi – Advocate for Respondent No. 1

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CORAM : NEERAJ P DHOTE, J.

DATED : 6TH NOVEMBER, 2025

PER COURT : -

1. Learned Advocate for the Petitioner, learned Advocate for Respondent No. 1, who is contesting party, and learned AGP for Respondent No. 2 / Education Officer, are present.

2. The Petitioner is the Institution where Respondent No. 1 was working as an Assistant Teacher. The services of Respondent No. 1 came to be terminated on 23.12.1999. Respondent No. 1 preferred the Appeal before the learned School Tribunal after a period of ten (10) months. Application for condonation of delay was rejected and the Respondent No. 1 had approached this Court against rejection of the same by order dated 05.11.2001 in Writ Petition No. 1309 of 2003. The said Writ Petition came to be allowed on 09.10.2015. The said order is challenged by the employer of Respondent No. 1.

3. It is the contention of learned Advocate for the Petitioner that, though the said Writ Petition was allowed in October – 2015, Respondent No. 1 slept over for many years and approached the learned Tribunal with an Application for registration of the Appeal in view of the said order of this Court in the aforesaid Writ Petition on 19.09.2022 and this goes to show that, just to take undue advantage of the order of this Court and to reap more benefits, deliberate delay has been caused by Respondent No. 1. He submits that, this Court in the above referred order has deprived the Respondent No. 1 for all monetary benefits for the period 23.12.1999 till 05.11.2001 and submits that the said deprivation of monetary benefits be made applicable for the period which was consumed by Respondent No. 1 in approaching the School Tribunal. He submits that the Petition be allowed.

4. The Petition is opposed by Respondent No. 1. He submits that, due to illness of Respondent No.1's son, he could not contact his Advocate and, therefore, could not approach the School Tribunal immediately after this Court had passed the order in the aforesaid Writ Petition. He submits that the learned Tribunal has rightly passed the impugned order and no interference is called for.

5. Perused the papers on record. The relevant observations from the said order dated 09.10.2015 in Writ Petition No. 1309 of 2003

are reproduced below : -

“16. As such, I find that the impugned order of the Tribunal dated 15/11/2001 is rendered unsustainable. Same is, therefore, quashed and set aside. The application for condonation of delay stands allowed and the appeal preferred by the petitioner shall stand restored and registered, subject to depriving the petitioner of all monetary benefits for the period 23/12/1999 till 05/11/2001, save and except notional continuity in service for the said period in the event the appeal is allowed.

17. The Tribunal shall note that the respondent claims that the petitioner was on probation and shall decide the appeal by considering all the contentions of the litigating sides. The Tribunal shall also bear in mind that a new person has been appointed in place of the petitioner and in the event the petitioner succeeds in the appeal, the Tribunal shall consider the approved employment of the said person while considering the request of grant of consequential reliefs by the petitioner.

18. Rule is, therefore, made absolute in the above terms.”

6. Perusal of the impugned order dated 27.01.2023 passed by the learned School Tribunal show that the Appeal No. 148 of 2000 stands restored on the file in view of the aforesaid order of this Court. The operative part of the said impugned order is reproduced hereunder:

“ORDER

- 1. The application is allowed.*
- 2. The appeal No. 148/2000 stands restored in view of order passed in W.P. No. 1309/2003 on dt. 09/10/2015.*
- 3. The parties are directed to appear before court on dt. 09/02/2023.*
- 4.”*

7. Since it is clear from the impugned order that it is based on the observations made in the aforesaid order by this Court, no fault can be found with the same. As regards the contention of the learned Advocate for the Petitioner that, due to delay caused by Respondent No.

1 in approaching the learned School Tribunal after this Court had allowed his Writ Petition, he be further deprived of monetary benefits for the delayed period is concerned, it would be open for the Petitioner to raise the said ground before the learned Tribunal at the time of final hearing of the Appeal. In this view of the matter, no interference is called for in the impugned order and the Writ Petition stands dismissed.

[NEERAJ P. DHOTE]
JUDGE

SG Punde