



Shakuntala

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 672 OF 2024

Smt. Almira Furtado

W/o. Shri Ricky Furtado,

Aged 54 years, Indian National,

R/o. H. No. A-2, Paradise Apartments,

Aquem Alto, Margao Goa.

... PETITIONER

VERSUS

1. State of Goa

Through Chief Secretary,

Porvorim Goa.

2. The Director,

Directorate of Education,

Porvorim, Goa.

3. The Chairman,

School Managing Committee,

Infant Jesus Academy, Velsao,

P.O. Cansaulim Goa.

4. Smt. Wilma D'Silva, Major

in age, Trained Graduate Teacher,

Infant Jesus Academy, Velsao,

P.O. Cansaulim, Goa.

... RESPONDENTS

Mr. Apeksha Kalokhe, Advocate for the Petitioner.

Mr. Siddharth Samant, Additional Government Advocate for the Respondent Nos. 1 and 2.

Mr. Vledson Lucio Braganza and Mr. Vilas Pavithran, Advocate for Respondent No. 4.

**CORAM:- BHARATI DANGRE &
NIVEDITA P. MEHTA, JJ.**

DATED :- 08th April, 2025

ORAL JUDGMENT (Per Bharati Dangre, J.)

1. The petition seeks stay of the operation of impugned order dated 21/08/2024 passed by the Director of Education, thereby rejecting the appeal filed by the petitioner under Rule 87A (7) of the Goa Daman and Diu School Education Rules, 1986, (“Rules, 1986” for short) raising a challenge to the final seniority list of Assistant Teachers prepared in the year 2023-2024.

By way of final relief, a relief is sought for quashing and setting aside the said order.

2. We have heard Ms. Kalokhe, learned counsel representing the petitioner, Mr. Samant, learned Additional Government Advocate representing respondent nos. 1 and 2 and Mr. V. Braganza, learned counsel representing respondent no. 4. By consent of parties, we issue Rule by making it returnable forthwith.

The learned counsel for respondents waive notice on behalf of respective parties.

3. The grievance of the petitioner is that the petitioner along

with the respondent no. 4 applied for the post of Assistant Teacher in Graduate category and they were selected by the Departmental Selection Committee. The minutes of the selection committee at the time of their selection are also placed on record which reflect the procedure adopted for selection.

Pursuant to the selection, the petitioner was offered a letter of appointment on 13.06.2002 appointing her as Assistant Teacher in Infant Jesus Academy w.e.f. 13.06.2002 in the pay scale of 5500-175-9000. The appointment was indicated to be probational, being subject to approval of the Director of Education, Panaji.

In the year 2019-2020, a seniority list of graduate category was prepared where the respondent no. 4 was shown at serial no. 2 and petitioner was shown at serial no. 3, the date of their appointment being shown as 13.06.2002 and date of conferring seniority scale upon them being shown as 13.06.2014.

4. Being aggrieved by the placement of the petitioner below the respondent no. 4 in the seniority list, she addressed a communication to the Headmaster of the Academy, claiming that her days of service are more than that of respondent no. 4, as there was a break in service, as respondent no. 4 had proceeded on leave

and therefore, respondent no. 4 should be placed below the petitioner in the seniority list.

5. When no cognizance was taken of her grievance, she approached the Director of Education by filing an appeal, as in terms of Rule 87A(7), in case an employee has an objection/claim in respect of the seniority list so finalised by the management, an appeal shall lie to the Director who shall decide the case.

Proviso appended to sub-clause (7) of Rule 87A, however, prescribes that a party aggrieved by the decision of the Director may prefer an appeal to the Tribunal.

6. The counsel for petitioner has invited our attention to the order dated 26/09/2024, when this Court was confronted with an issue whether the ‘Tribunal’ constituted under the Tribunal Act, has the jurisdiction to condone the delay in preferring the appeal against the order passed by the Director of Education under Rule 87A(7) of the Rules, 1986.

Taking note of the inconsistency in the provision of the Act and the Rules, the learned Additional Government Advocate was requested to address the Court on the issue, and file an

affidavit.

Admittedly, the directions issued by this Court received no compliance at the end of the Government.

7. In the present case, on being confronted with this provision of having a remedy of preferring an appeal being aggrieved by the decision of the Director of Education dated 21/08/2024, the learned counsel seek liberty to withdraw the petition with liberty to approach the Tribunal. As far as the issue of limitation is concerned, it is kept open for the Tribunal to pronounce upon the same.

8. In the wake of the aforesaid, writ petition stands disposed of as withdrawn. Rule stands disposed of accordingly.

NIVEDITA P. MEHTA, J.

BHARATI DANGRE, J.