

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1952 OF 2023**

Narayan Devba WaghmarePetitioner
versus
State of Maharashtra and Ors.Respondents

Ms. Archana P. Gaikwad for the Petitioner.

Ms. Pooja Joshi Deshpande for the Respondent Nos. 1 to 3, and 5.

**CORAM : RAVINDRA V. GHUGE
&
ASHWIN D. BHOBE, JJ.**

DATE : 11th MARCH, 2025

P.C. :-

1. We have considered the submissions of the learned Advocate for the Petitioner and the learned AGP on behalf of Respondent Nos. 1 to 3 and 5. Considering the controversy before us, we do not find that Respondent Nos.4, 6 and 7 needed to be added by name. We direct deletion of the names of Respondent Nos.4, 6 and 7. Deletion to be carried out forthwith.

2. The Petitioner was terminated from service and he

assailed his oral termination dated 3rd March, 2008 in Appeal No.22 of 2008 under Section 9 of the MEPS Act, 1977. By judgment dated 15th October, 2011, the School Tribunal allowed the appeal and passed the following order:

ORDER

- 1. Appeal is allowed.*
- 2. The impugned oral, otherwise termination order dated 03/03/2008 is hereby declared as illegal, improper and void and therefore same is hereby quashed and set aside.*
- 3. The Respondent/Management is hereby directed to reinstate the Appellant in the service forthwith*
- 4. As far as continuity of service is concerned, as the appellant's probation period shall be treated from 04/07/2007 (ie on acquiring of professional qualification) till 04/12/2008 and the remaining period of 7 months from the order of reinstatement ..*
- 5. The Appellant is entitled for the back wages as,*
 - a) W.e.f. 03/03/2008 to 03/12/2008 50% back wages payable by the Respondent/Management.*
 - b) W.e.f. 14/12/2010 till date of this order 50% back wages which are payable by the Respondent/Management.*
 - c) From 04/12/2008 to 14/12/2010 the matter was dismissed in default on the part of the Appellant, as Appellant was not remained present before the Court. Hence there is no question arise to award back wages for the said period.*
- 6. Respondents are hereby directed to comply with the above order within 30 days.*
- 7. No order as to costs.*

Judgment dictated and pronounced in open Court.

3. The Management approached the learned Single Judge of this Court in Writ Petition No.9949 of 2011. During the pendency of the Petition, the Petitioner was reinstated in service by the Management on 16th November, 2011. This is an undisputed position. Subsequently, the parties arrived at a settlement and the Management agreed to comply with the directions of the School Tribunal. The Writ Petition was, therefore, disposed off vide order dated 14th August, 2014.

4. It is thus apparent that as the Employer indulged in an illegal act of orally terminating the Petitioner which was faulted by the School Tribunal and the Management was directed to pay the backwages in terms of the order reproduced above. No monetary burden, directly or indirectly, was cast on the State Exchequer.

5. The Petitioner was working on a post which was grant-in-aid. This is also undisputed. As such, being reinstated on 16th November, 2011, the Petitioner would be entitled for the salary from the grants to the extent the grants are applicable, if no other person was appointed in his place and who has not been paid the salary

from the State's grants. The backwages prior to the reinstatement, are to be paid by the Management, which is a statement made before the learned Single Judge Bench of this Court.

6. The Employer is said to have tendered the salary bills of the Petitioner. The Deputy Director of Education, Kolhapur has raised certain issues. We need to remind him (Shri. Mahesh Chothe) that the School Tribunal has delivered a verdict and the High Court has not interfered with the same. The Petitioner has been reinstated on 16th November, 2011. The Deputy Director cannot go behind the order of the School Tribunal and the High Court. He only has to verify as to what is the percentage of the grant-in-aid and proportionate thereto, he has to sanction the bills to be paid to the Petitioner considering the days on which he has worked.

7. At this juncture, the learned Advocate for the Petitioner submits that the erstwhile Management has disappeared. The Petitioner was declared surplus on 30th March, 2022. Thereafter, he joined New English School Ramapur, Taluka Kadegaon, District Sangli. Till he was declared surplus, the bills were tendered by the erstwhile Management. After he joined the new school when he was

absorbed, the bills are forwarded by the new Management. Wages are regularly paid by the new Management. The G.R. dated 15th March, 2024 indicates that during the period of being surplus prior to absorption, such surplus candidates are entitled for wages.

8. He submits further details as under :-

- a] Since 2019, he is getting regular salary and no dues are pending with the new management/ school.
- b] He became surplus on 30.03.2022.
- c] Order of Education Officer of declaring him surplus is dated 01.04.2022.
- d] Reliving order was passed by the Education Officer on 04.04.2022.
- e] Joined the New school on 05.04.2022.

9. In view of the above, **this Petition is disposed off** with a direction to the Deputy Director of Education that the above stated exercise (set out in paragraph 6 herein above), shall be completed within 60 days from today. He shall give highest priority to this matter and conclude the same in the light of the above and ensure that the amounts are paid. If he finds that the Management is

creating any hurdles, he is at liberty to file an Interim Application in this matter and seek further orders. We direct the Deputy Director of Education, Kolhapur to consider all these aspects and make a serious endeavour to redress the grievance of the Petitioner by rendering him co-operation.

10. With the above directions, **this Petition is disposed off.**

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)