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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6632 OF 2023

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... Petitioner

V/s.

The President/Secretary, Balkrishna
Shikshan Sanstha & Ors.

... Respondents

Mr. N.V. Bandiwadekar, Senior Advocate with Mr.
Shekhar V. Mane and Ms. Suchita Chavan i/by Mr.
Prabhakar M. Jadhav for the petitioner.

Mr. Anant Vadgaonkar for respondent No.1.

Mr. Bapusaheb Dahiphale, AGP for respondent No.3-
State.

Mr. Santosh Jadhavar (through V.C.) with Mr. Pratik
Irpargire i/by Mr. Chaitanya Khade for respondent
No.4.

CORAM : AMIT BORKAR, J.

DATED : MARCH 20, 2025

P.C.:

1. The challenge in the present writ petition arises out of the order passed by the learned School Tribunal in Appeal No.16 of 2022, wherein the petitioner had assailed the grant of supersession in favour of respondent No.4. The dispute primarily revolves around the determination of seniority between the petitioner and respondent No.4 in light of the provisions of Schedule-F to the Maharashtra Employees of Private Schools (Conditions of Service)

Rules, 1981 ("the MEPS Rules, 1981").

2. The facts, which are undisputed, indicate that the petitioner, at the time of his entry into Category-C of Schedule-F, held the qualification of B.A., which he acquired in the year 1999. In contrast, respondent No.4 was appointed on 10th November 1990, holding the qualifications of S.S.C. and D.Ed (two-year course). The learned School Tribunal, after due consideration of the factual matrix and applicable rules, recorded a categorical finding that respondent No.4 had entered Category-C in the year 1992, whereas the petitioner entered the said category only in the year 1998. Consequently, respondent No.4, having entered Category-C earlier, was correctly held senior to the petitioner by the Tribunal. This determination is in consonance with the established principles governing fixation of seniority under the MEPS Rules, 1981.

3. At this stage, Mr. Bandiwadkar, learned Senior Advocate appearing for the petitioner, placed reliance on the judgment of this Court (Amit Borkar, J.) in Writ Petition No.7361 of 2017 (President/Secretary, Shikshan Prasarak Mandal & Anr. v. Hema Balkrishna Agawane & Ors.), decided on 12th February 2025, to contend that respondent No.1 in that case was considered eligible for placement in Category-C despite holding only an S.S.C. and D.Ed qualification at the time of appointment.

4. In order to appreciate this contention, it is necessary to advert to the provisions of Schedule-F of the MEPS Rules, 1981, which lays down the guidelines for fixation of seniority of teachers in secondary schools, junior colleges of education, and junior

college classes attached to secondary schools. The relevant extract of Schedule-F reads as under:

“2. Guidelines for fixation of seniority of teachers in the secondary schools Junior Colleges of Education and Junior College classes attached to secondary schools and Senior Colleges.

For the purpose of fixation of seniority of teachers in the secondary schools. Junior Colleges of Education and Junior College classes attached to Secondary Schools the teachers should be categorised as follows:

Category A:

Category B:

Category C:- Holders of—

M. A./M. Sc./M.Com., B.T./B. Ed., or its equivalent;

or

B. A./B. Sc/B.Com., B.T./B.Ed., or its equivalent;

or

B. A./B. Sc/B.Com. Dip.T. (old two years course);

or

[B. A./B. Sc./B.Com., S. T. C./Dip. Ed./Dip. T. (one year course) with 10 years post-S. T. C. etc. service.

2[B. A. or its equivalent plus Senior Hindi Shikshak Sanad with five years service; or Junior Hindi Shikshak with ten years service 3[after obtaining both academic and training qualifications.]]

Category D:.....

Category E:

Category F: Untrained Graduates or holders of equivalent qualification.

Category G:.....

Category H:

Note 1: For the purpose of categories C, D, and E teachers with S. T. C, T. D., Jr. P. T. C. Dip, T., Dip. Ed. (post S.S.C. one year course) qualifications appointed on or after 1st October 1970 shall be considered as untrained and their seniority shall be fixed in the 'F' or 'G' category of untrained teachers as the case may be.

Note 2: The following training qualifications which can be secured two years after S.S.C. Examination shall be considered as training qualification for the purpose of seniority even after 1st October 1970—

(1) D. Ed. (2 years).

(2) T. D. (Bombay University).

(3) Dip. Ed. (Nagpur University).

Note 3: In the case of teachers whose date of continuous appointment in one and the same category is common, the teacher who is senior by age will be treated as senior.

Note 4: The categories mentioned above represent the ladder of seniority and have been mentioned in descending order.....”

5. A plain reading of the above provision makes it evident that for entry into Category-C, apart from the requisite training qualifications such as B.Ed. or D.Ed., possession of a graduate degree (B.A., B.Sc., or B.Com.) is an essential criterion. In the case of Hema Balkrishna Agawane (supra), this Court did not take into consideration the mandatory requirement of possessing a graduate degree for placement in Category-C. As such, the said judgment fails to appreciate the essential qualification criteria and, therefore,

is per incuriam vis-à-vis the provisions of Schedule-F.

6. The doctrine of per incuriam is well recognized in Indian jurisprudence and applies where a decision has been rendered in ignorance of a binding statutory provision or a rule that has a direct bearing on the issue at hand. The Hon'ble Supreme Court in *Municipal Corporation of Delhi v. Gurnam Kaur* (1989) 1 SCC 101, held that a judgment rendered in ignorance of relevant statutory provisions is not binding as a precedent. Similarly, in *State of U.P. v. Synthetics and Chemicals Ltd.* (1991) 4 SCC 139, the Supreme Court reiterated that a decision per incuriam lacks precedential value and does not bind the courts in subsequent cases. Applying the said principle to the present case, the reliance placed on Hema Balkrishna Agawane (supra) by the petitioner is misplaced, as the said judgment was rendered without considering the mandatory qualification criteria prescribed under Schedule-F.

7. In light of the foregoing analysis, I am of the considered view that the learned School Tribunal has correctly determined the seniority of respondent No.4 vis-à-vis the petitioner. The findings of the Tribunal are based on a correct interpretation of the statutory provisions and do not warrant any interference in the exercise of writ jurisdiction under Article 226 of the Constitution of India.

8. In view thereof, the writ petition is devoid of merit and is accordingly dismissed. No costs.

(AMIT BORKAR, J.)