

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4785 OF 2024

Smt. Sushma Shahaji Ghorpade

....*Petitioner*

: *Versus* :

The Education Officer, (Secondary)
Zilla Parishad, Solapur & Ors.

....*Respondents*

Mr. S.G. Kudle, *for the Petitioner.*

Mr. S.H. Kankal, *AGP for State.*

CORAM : SANDEEP V. MARNE, J.

Dated : 26 March 2025.

P.C. :

1) The petition challenges judgment and order dated 26 August 2022 passed by the Presiding Officer, School Tribunal, Solapur dismissing Appeal No.58/2018 preferred by the Petitioner challenging her oral termination effected in the month of May 2018.

2) I have heard Mr. Kudle, the learned counsel appearing for the Petitioner and Mr. Kankal, the learned AGP appearing for Respondents. I have gone through the findings recorded by the School Tribunal in the impugned judgment and order, as well as the relevant records of the case produced alongwith the petition.

3) Perusal of the order passed by the School Tribunal would indicate that it has recorded a finding of fact that the initial appointment of the Petitioner was not in accordance with the provisions of Section 5 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (**MEPS Act**) read with Rule 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (**MEPS Rules**). The School Tribunal has also recorded a finding of fact after perusal of evidence on record that the claim of the Petitioner of having rendered continuous service of 5 years could not be established. The Tribunal has recorded following findings for dismissal of the Appeal :

22. The documents produced by appellant even though establishes the fact that the appellant was rendering service but it would not extend legal status to the appointment of appellant which has been issued without following due procedure of appointment of employee in terms of rule 9 of MEPS Rules, 1981, hence these documents are not helpful to the appellant to claim reinstatement and protection of provisions of section 5 of MEPS, Act, 1977. There is no muster roll on record to show that the appellant was rendering service and hence the case of appellant as regards rendering of continuous service cannot be believed without documentary proof. There is no document on record in support of statement of appellant as regards rendering continuous service. Hence, mere statement of appellant in that regard is not sufficient. The appellant has failed to prove his appointment in terms of provisions of S.5 of M.E.P.S. Act, 1977 and right to claim protection being permanent employee.

23. The appellant failed to prove that her appointment was legal in terms of provisions of S.5 of M.E.P.S. Act, 1977 read with provisions of rule 9 of M.E.P.S. Rules, 1981. Hence, I hold that the appointment of appellant is not legal hence, in that view of matter, the case of oral otherwise termination cannot be accepted on the statement of appellant. Hence, the appellant is not entitled for declaration of oral otherwise termination of May, 2018 as claimed. The appellant is not entitled for reinstatement on the basis of appointment order against the respondent for the reasons recorded herein above and

consequently, I answer point Nos. 1 to 4 negatively and in the result, I proceed to pass following order.

ORDER

1. The appeal is dismissed.
2. There shall not be order as to costs.

4) Alongwith the petition, Petitioner has not produced any documents to indicate that any advertisement was issued at the time of initial appointment of the Petitioner or that she was subjected to any selection process. In that view of the matter, the findings recorded by the School Tribunal about appointment not being in accordance with the provisions of Section 5 of the M.E.P.S Act and Rules cannot be termed as perverse findings. Even the claim of continuous service of five years is found to be factually incorrect by the Tribunal. In exercise of jurisdiction under Article 227 of the Constitution of India, this Court cannot interfere in the order passed by the tribunal in absence of demonstration of element of perversity in the findings recorded by the School Tribunal. The petition is accordingly **rejected**.

[SANDEEP V. MARNE, J.]

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