

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8910 OF 2024

Savita Arjunsingh Advani

... Petitioner

Versus

The President, Shankar

Education Society And Ors

... Respondents

Mr. Girish A. Agrawal *a/w Ms. Naina Borsate for the Petitioner.*

Mr. Sanjeev B. Deore *a/w Ms. Suchita J. Pawar, Mr. Prakash Bajaj & Mr. Arman Ansari for Respondent Nos. 1 and 2.*

Mr. R.S. Pawar, AGP for Respondent / State.

CORAM : SANDEEP V. MARNE, J.

DATE : 11 MARCH 2025.

P.C. :

1) The Petition challenges judgment and order dated 22 March 2024 passed by the Presiding Officer, School Tribunal, Nashik dismissing Appeal No. 46 of 2017 preferred by the Petitioner. In her Appeal filed under provisions of Section 9 of the Maharashtra Employees of Private Schools (Conditions of Services) Regulation Act, 1977 (**MEPS Act**), Petitioner had prayed for setting aside oral termination effected on 24 August 2017.

2) I have heard Mr. Agrawal, the learned counsel appearing for Petitioner, Mr. Deore, the learned counsel appearing

for Respondent Nos. 1 and 2. Mr. Pawar, the learned AGP appearing for Respondent-State. I have gone through the findings recorded by the School Tribunal in the order dated 22 March 2024 as well as records of the case placed along with the pleadings.

3) There appears to be serious dispute between the parties about the nature of initial appointment of the Petitioner. While it is Petitioner's case that she was initially appointed on a regular basis and that her services were kept on probation, it is the case of Respondent-Management that initial appointment of the Petitioner was temporary and that she was never been made permanent. The School Tribunal has accepted the version of the management and has accordingly dismissed the complaint holding that Petitioner was never appointed on regular basis as Assistant Teacher.

4) In the present case, no written termination order was issued. It appears that Petitioner proceeded on leave from 23 March 2016 and was supposed to return and resume the duties immediately after end of the leave period which was sanctioned only upto 8 July 2016. However Petitioner overstayed the leave and came back to India in October 2016. The Petitioner alleges that Respondents did not allow her to resume her duties after October 2016. As against this, it is the case of the Respondent-Management that the Petitioner never showed any interest in rejoining the services with the Respondent No.1. It is the case of the Respondent-Management that Petitioner is employed somewhere else and therefore was never interested in joining back the services with the Respondent No.1. It is contended by Respondent No.1 that no termination was ever effected against the Petitioner and that her

entire case of oral termination was a figment of imagination, without there being any element of truth therein.

5) Since Respondent No. 1 has taken stand that services of the Petitioner were never terminated, this Court enquired with Mr. Deore as to whether the management is willing to take her back in service. After taking instructions from his client, who is present in the Court, Mr. Deore would fairly submit that Respondent No.1-Management is still willing to take back the Petitioner in service.

6) Since Petitioner is being taken back in service by Respondent No.1, the next issue for consideration is about the relief of continuity and backwages. The School Tribunal has rejected the relief for reinstatement and backwages and has proceeded to dismiss the Appeal. The Respondent No.1-Management has shown magnanimity in permitting the Petitioner to rejoin her services. In view of serious dispute between the parties about the nature of appointment of the Petitioner, it would be too dangerous to award backwages in her favour. I am therefore not reversing the findings recorded by the School Tribunal qua the nature of appointment of the Petitioner at this juncture. If Petitioner believes that she is regular employee, she can make representation to that effect to Respondent No.1. However considering the unique facts and circumstances of the case where Petitioner is permitted to join back her duties on account of non issuance of any specific order of termination, I am inclined to award backwages in her favour considering serious dispute amongst the parties about the nature of her appointment.

7) The Petition accordingly succeeds partly and I proceed to pass the following order:

i) Judgment and order dated 22 March 2024 passed by the Presiding Officer, School Tribunal, Nashik is modified to the extent that Respondent No.1-Management shall permit Petitioner to resume duties in the School with effect from 1 April 2025.

ii) Respondent shall not be entitled to any backwages in respect of the intervening period. She shall however be entitled to the benefit of continuation of service.

iii) If the Petitioner believes that she is the regularly appointed teacher in Respondent No.1-School, it would be open for her to make a representation to that effect to the management. No opinion is expressed on this aspect.

8) With the above directions, the Writ Petition is **partly allowed and disposed of**.

[SANDEEP V. MARNE, J.]