



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.1141 OF 2019

PETITIONER

(Ori. Appellant)

: Sau. Rekha W/o. Ajay Vishrojwar,
Aged about 45 years, Occ. Nil, R/at-
C/o. Shri. Vitthalrao Vishrojwar,
Samadhi Ward No.2, Near Govinda
Swami Mandir, Chandrapur, Tahsil
Chandrapur and Dist. Chandrapur.

...VERSUS...

RESPONDENTS :

(Ori. Respondents)

- 1) Sanmitra Convent, Deshmukh Wada,
Samadhi Ward, Chandrapur, through
its president.
- 2) The Headmistress, Sanmitra Primary
and Convent School, Samadhi Ward,
Chandrapur.
- 3) Education Officer (Primary), Zilla
Parishad , Chandrapur, Taluka
Chandrapur and Dist. Chandrapur.

Mr. S.Y. Ahmed, Advocate for Petitioners.

Mr. N.A. Gaikwad, Advocate for Respondent Nos.1 and 2.

CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 12/11/2025

ORAL JUDGMENT :

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1. Heard. **Rule.** Rule made returnable forthwith. The petition is heard finally with the consent of the learned Counsel for the respective parties at the stage of admission.

2. The present petition is directed against the order dated 15.02.2018 passed by the School Tribunal in Appeal No.(STC)4/2002, whereby, the petitioner challenges the said order to the extent of not granting her reinstatement along with 100% backwages.

3. Learned counsel for the petitioner Mr. S.Y. Ahmed, submits that the petitioner came to be appointed as “Peon” on 07.07.1989 and served with the management for a period of five years. Subsequently on 22.11.1994, her services were terminated and being aggrieved by the same, she filed an appeal before the learned School Tribunal. The appeal filed by the petitioner came to be dismissed on the preliminary issue of maintainability. The said order was challenged by the petitioner by filing a Writ Petition No.1305/2008, which came to be allowed by this Court vide order dated 20.08.2006, thereby, setting-aside the order passed by the learned Presiding Officer, School Tribunal and remanding the matter back with directions to decide the matter on its own merits.

4. This Court, while remanding the matter observed in para No.2 of the said judgment, which is reproduced as follows :-

“2. Perusal of the order dated 22-11-994 terminating the services of the petitioner shows that the termination is by way of punishment after holding the departmental enquiry. In such a situation, the School Tribunal was not competent to frame the issue as to whether the initial appointment of the petitioner was made after following the procedure prescribed under the MEPS Act and the Rules framed thereunder. The controversy is covered by the decision of this Court in the case of Manohar Mahadeo Bhajikhaye v. Presiding Officer, School Tribunal, Chandrapur and others, reported in 2011 (4) Mh.L.J. 312. The Tribunal was required to adjudicate the controversy on merits of the matter, which it has failed to do, resulting thereby jurisdictional error in deciding the matter.”

5. After the matter was remanded back by this Court, the learned School Tribunal partly allowed the appeal. It was held that the termination order dated 22.11.1994 was illegal and accordingly, it was quashed and set-aside directing the respondent/management to pay 50% backwages and all pecuniary benefits from 22.11.1994, admissible as per Rules.

6. Therefore, the counsel for the petitioner submits that once termination order passed by the management is held to be illegal and the same was set-aside, there was no reason for the learned Tribunal to refuse the relief of reinstatement. He further submits that the management failed to prove that the petitioner was gainfully employed at any other place, therefore, reinstatement ought to have been granted. Therefore, he submits that the petitioner needs to be allowed.

7. Per contra, learned counsel for the respondents submit that there were no sanctioned posts available when the petitioner was

appointed. Learned Tribunal has rightly considered neither the fact that the petitioner was made permanent nor her services were approved by the Education Officer. He further submits that after the order passed by the learned Tribunal, the petitioner had accepted the backwages of an amount of Rs.51,850/- (Rupees Fifty One Thousand Eight Hundred and Fifty Only). Once the backwages are accepted the petitioner cannot assail the said order and therefore, on this ground, the petition is liable to be dismissed.

8. I have gone through the contents of both the parties and the orders passed by the learned School Tribunal, it reveals that the petitioner came to be appointed on 07.07.1989 and continued in service for a period of five years before her termination on 22.11.1994.

9. In view of Section 5(2) of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (for short "MEPS"), after completion of two years of continuous service, an employee is entitled to permanency. Section 5(2) of the MEPS is reproduced is as follows :-

"Section 5 Certain obligations of Management of private schools

(1)

(2) Every person appointed to fill a permanent vacancy [except [Assistant Teacher (Probationary)] shall be on probation for a period of two years. Subject to the provisions of sub-sections (3) and (4), he shall, on completion of this probation period of two years, be deemed to have been confirmed."

10. Once the termination was held to be illegal and same was set-aside and only on the ground that her appointment was not approved or that she was not made permanent employee, refusal to grant reinstatement cannot be sustained. Hence, I pass the following Order :-

ORDER

- A) The Writ Petition No.1141/2019 is hereby **allowed**.
- B) Clause (2) of operative part of order dated 15.02.2018 passed by the learned School Tribunal in Appeal No. (STC)4/2002 is modified by granting reinstatement in service to the petitioner.
- C) The management is directed to reinstate the petitioner within a period of four weeks from today.

Rule is made absolute in above terms.

(**SIDDHESHWAR S. THOMBRE, J.**)