



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

**WRIT PETITION NO.809/2022**

- PETITIONERS :** 1. Ujwal Bahuuddeshiya Shikshan Sanstha,  
(Ori. Resp.no.4) Through its Secretary,  
Shri Devanand S/o Bhanudas Choudhary,  
Aged about 46 years, Occu. Agriculturist,  
Having its office at Amgaon (Deghori),  
Tah. and Distt. Bhandara.
- (Ori.Resp. no.3) 2. Ujwal Vidyalaya Lakhori,  
Tah. Lakhani, Dist. Bhandara,  
Through its Head Master.

**...VERSUS...**

- RESPONDENTS :** 1. Shri Gautam S/o Vishvanath Dighore,  
(Ori. Appellant) Aged about 51 years, Occu. Service,  
R/o C/o Arun Burade, Sainagar,  
Lakhani, Tah. Lakhani, Distt. Bhandara.
- (Ori. Resp. no.2) 2. The Education Officer (Secondary)  
Zilla Parishad Bhandara,  
Tq. and Distt. Bhandara.
3. The Presiding Officer,  
School Tribunal, Nagpur.
- (Ori.Resp. no.1) 4. The Zilla Parishad Bhandara,  
Through its Chief Executive Officer,  
Bhandara.

(Strickout vide Order 1 Rule 10 (2)  
of the CPC 1908)

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Mr. Gopal Mishra, Advocate for petitioners  
Mr. G.G. Bade, Advocate for respondent No.1  
Mr. A.M. Kadukar, AGP for respondent Nos.2 and 3

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**CORAM : SACHIN S. DESHMUKH, J.**

**DATE : 18/07/2025**

**ORAL JUDGMENT :**

1. Heard. Rule. Rule made returnable forthwith. By consent of the parties, the petition is heard finally at the stage of admission.

2. The respondent No.1/employee was appointed in the year 1994 as a Laboratory Assistant. The approval to the services of the respondent No.1/employee was also accorded by the Education Officer in the year 1996. However, in the interregnum, the employee met with an accident on 22/10/2010. Thereafter, the respondent No.1/employee resumed his duties on 20/01/2011. The factum of occurrence of incident during the course of the employment is not disputed by the petitioners herein. Owing to the said accident, the employee has been incapacitated. Although, the petitioners herein have recognized the plight of the respondent No.1/employee, however, ignoring the said plight of the respondent No.1/employee and a statement of allegation which was served upon the respondent No.1/employee, was in relation to the said difficulties faced by the employee due to said disability.

3. Having identified and recognized the disability sustained by the employee, in ignorance of the same, a statement of allegation was served. Principally, it is in relation to disability sustained by the respondent No.1/employee. Based on the said statement of allegation,

an enquiry was conducted and penalty of compulsory retirement was imposed upon the respondent No.1/employee by the order dated 27/07/2018, of which, the effect is given from 30/07/2018. The said order of imposing compulsory retirement was subject matter of challenge before the School Tribunal in Appeal No.83/2019. The Presiding Officer, School Tribunal, considering the fact that the punishment of compulsory retirement is not prescribed in Rule 28 (5) of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (for short hereinafter referred to “MEPS Rules, 1981”), has set aside the order imposed by the Institute with further awarding the consequential service benefits upon the respondent No.1/employee with continuity of service and full back wages.

4. The learned Counsel for the petitioners has submitted that the Tribunal has erred in setting aside the order of compulsory retirement merely on the ground that the penalty of compulsory retirement is not provided in Rule 28 (5) of the MEPS Rules, 1981. However, the learned Counsel for the petitioners has fairly conceded that the employee, who has rendered the services as Laboratory Assistant since 1994 is not able to discharge his duties due to an accident occurred during his service.

5. Per contra, learned Counsel for the respondent No.1/employee as well as learned Assistant Government Pleader for

respondent Nos.2 and 3 for the State support the impugned judgment. Heavy reliance is placed on the protections that are available to the persons with disabilities as defined under Section 2 (t) read with Section 47 of the Rights of Persons with Disabilities Act, 2016 (for short hereinafter “Act of 2016”). The further contention on behalf of the learned Counsel for the respondent No.1/employee is that while the employee has sustained disabilities during the service, by virtue of operation of Section 47 of the Act of 2016, it casts a statutory obligation on the employer to protect the employee acquiring disability during service. The petitioners herein have made serious departure with the obligation as has been cast by virtue of Section 47 of the Act of 2016.

6. In order to substantiate the entitlement of the employee being person with disability, heavy reliance is placed on the judgment of the Apex Court in case of *Kunal Singh Vs. Union of India and another* **AIR 2003 SC 1623**. The Hon’ble Apex Court observed that a comprehensive legislation for safeguarding the rights of persons with disabilities and enabling them to enjoy equal opportunities to help them fully participate in national life is to be achieved in the wake of the Act of 2016.

7. Undoubtedly, the petitioners herein, having accepted the factum of occurrence of accident resulting in the disability of the respondent No.1/employee during service entails the protections and

safeguards available under Section 47 of the Act, 2016. This legal position is restated by the Apex Court in case of *Kunal Singh* (supra) and the departure with the same is to be deprecated.

8. Admittedly, the petitioners herein have accepted that the plight of the respondent No.1/employee is a person with disability, as has been defined under Section 2 (t) of the Act of 2016, which predominantly and essentially entails the statutory obligations on the employer to protect the employee acquiring disability during service. Therefore, the punishment of compulsory retirement imposed on the employee is in gross violation and in utter contravention to the protections those are conferred by virtue of Section 47 of the Act of 2016. Resultantly no error could be noted in the order, rendered by the School Tribunal while allowing the appeal presented by the respondent No.1/employee. Accordingly, the writ petition is dismissed. Rule stands discharged. No order as to costs.

**(SACHIN S. DESHMUKH, J.)**