



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

WRIT PETITION NO.4468 OF 2022

Shri Deorao Gulabsing Rathod,
Aged 52 Years, Occupation- Nil,
R/O. At Post- Kanchali, Tah- Kinwat,
Dist- Nanded.

..... **PETITIONER**

...V E R S U S...

1. Sarvodaya Mahila Mandal,
Bhagirath Bhavan, Main Road,
Chandrapur, through its President.
2. Hindi Madhyamik Vidyalaya,
Shastrinagar, Mul Road, Chandrapur,
through its Headmistress.
3. The Education Officer (Sec.),
Zilla Parishad, Chandrapur.

..... **RESPONDENTS**

Mr. P. N. Shende, Advocate for Petitioner.
Mr. S. P. Bhandarkar, Advocate for Respondent Nos.1 & 2.
Mr. H. D. Dubey, AGP for Respondent No.3/State.

CORAM: **R. M. JOSHI, J.**
DATE: **23rd JUNE, 2025.**

ORAL JUDGMENT:

1. This petition takes exception to the judgment and
order dated 01.07.2022 passed by the School Tribunal,
Chandrapur in Appeal No.STC/10/2021, rejecting the same.

2. Petition essentially involves issue as to whether the services of employee can be terminated by simpliciter termination order after period of probation is over as contemplated by Section 5(2) and (3) of the Maharashtra Employees of Private Schools (Conditions of Services) Regulation Act, 1977 (for short, MEPS Act).

3. By consent of both sides, heard finally at the stage of admission.

4. Parties are referred to as employee and management for the sake of convenience.

5. The facts which are necessary for the determination of the issue involved in the present petition are reproduced in nutshell as under.

6. It is a case of employee that he was appointed as “Shikshan Sevak” on probation for a period of three years and the said appointment was made by following due process of law. He claims that during this period his work was satisfactory and hence he was continued in service. His appointment was duly

approved by the Education Officer. It is alleged by employee that the management was demanding Rs.2,00,000/- and as he refused to pay the said amount, harassment was caused to him by issuing show cause notices. It is further stated that he was also called upon to do the work even as 'Gardner' and 'Watchman'. It is his case that he was appointed on probation by issuing appointment order on 23.06.2001 specifically stating that the said term of probation would be from 25.06.2001 for a period of three years. He claims that he has become deemed permanent employee on 24.06.2004. He further claims that the management terminated his service without following due process of law on 25.06.2004, in view of the fact that after becoming deemed permanent, the management had no right to terminate his services simpliciter, as done here in this case.

7. Being aggrieved by the said termination he preferred appeal under Section 9 of the MEPS Act before School Tribunal, Chandrapur. By impugned judgment and order School Tribunal rejected the appeal on the ground that there is no signature of the employee on the muster roll of 25.06.2004 as the management has decided to terminate his services on 25.06.2004. It is further held that since he has not worked on 25.06.2004 question of he

becoming confirmed employee does not arise. The learned trial Court passed judgment by relying upon judgment of this Court in case of *Shivdutta Education Trust and another v. Harishchandra Rajabali Yadav and others* 2012(4) Mh.L.J. 900.

8. Learned Counsel for the employee submits that in the written statement management has admitted the fact that the employee was appointed after following due process of law and on probation for a period of three years. It is his submission that once the said fact is admitted, it need not be proved before the School Tribunal that the appointment of the employee was on probation for period of three years. It is his submission that since the appointment of the employee was on probation, in view of Section 5(2A) of the MEPS Act, on completion period of probation, he is deemed to have confirmed. It is his submission that the provision of deemed confirmation indicates that no further act or action is contemplated for the purpose of such confirmation. It is his submission that the period of probation came to an end on 24.06.2004 and as such the employee was deemed confirmed could not have been terminated by issuing order of simpliciter termination. It is from submission that admittedly no procedure as laid down in law has been followed and that there was no notice

or notice of pay in lieu of notice before effecting his termination. He argued that if the termination is for the reason of act of alleged misconduct, it was obligatory on the part of the management to conduct an enquiry and only after the approval of the Competent Authority, he could have been terminated. It is his submission that the Tribunal has committed an error in holding that for not signing muster roll on 25.06.2004, he cannot be held to be confirmed in the service. To support his submission reliance, is placed on following case law:

- [i] Shivdutta Education Trust and another v. Harishchandra Rajabali Yadav and others 2014(4) Mh.L.J. 900.*
- [ii] Ram Avadh Mahel Pal v. Shivdutta Educational Trust and others 2007(6) Mh.L.J. 659.*

9. Learned Counsel for the management opposed the petition firstly on the ground that the appointment of the employee was for a period of three academic years and unless the academic sessions were over, he could not have claimed the confirmation. It is his next submission that it is open for the management to terminate the services of an employee at the end of the probation period and such termination simpliciter cannot be termed as illegal. To support his submission he has placed reliance

on the judgment of the Bombay High Court in case of *Shivdutta Education Trust and another v. Harishchandra Rajabali Yadav and others* [2012(4) Mh.L.J. 900]. It is his further submission that since the termination is not stigmatic and the same has been effected at the end of the probation, the deeming fiction of confirmation as contemplated under Section 5 of the Act would not get attracted to the present case. It is his submission that the show cause notices issued to the employee during the period of probation itself indicate that his performance was far from satisfactory and hence such employee cannot be retained in employment and therefore, termination is justified. He placed reliance on following judgments:

- [i] *Arvind Shamshabd Ojha v. Saraswati Education Society, Thane and others* (2010) 3 Mah LJ 945.
- [ii] *Anand Education Society, Lakhani and another v. Bharti w/o Bhaskarrao Parsodkar and others* (2009) 3 Mah LJ 810.
- [iii] *Nilambari Dinkar Pawar v. Shikshan Prasarak Sanstha and others* (2007) 3 Mah LJ 822.
- [iv] *Rajkumar Onkar Jagtap v. Secretary, Kshatrakulotpana* (2006) 3 Mah LJ 502.
- [v] *Pen Shikshan Mahila Samiti v. Shradha Shriram Thakue and another* (2006) 1 Mah LJ 780.
- [vi] *Chanda Shikshan Prasarak Mandal and*

Ors. v. Presiding Officer Addl. School Tribunal Date 20.10.2000.

[viii] All Saints High School, Hyderabad and Ors. v. Government of Andhra Pradesh and Ors. Date 04.02.1980.

[ix] Writ Petition No.2435/2020 Date 24th/28th September, 2021.

[x] Writ Petition No.5998/2019 Date 30.05.2023.

10. At the outset it needs to be recorded that whole endeavour of both sides counsels was to convince this Court their respective stand in respect of termination of employee by order of simpliciter termination, according to the employee after conclusion of period of probation and as per case of school at the end of probation, apparent unsatisfactory performance. No one issue on the point of the correction or otherwise of termination came to be canvassed.

11. The school has not made dispute about the fact that employee was appointed as “Shikshan Sevak” on probation for a period of three years w.e.f. 25.06.2001 as reflected from the written statement before Tribunal. Further, admittedly the said appointment has been approved by the Education Officer (Secondary). The order of appointment on record indicates that it was for the period from 25.06.2001 till three years. No doubt it is

recorded therein that after completion of the said period his services would come automatically to an end. However, a question arises in this regard as to whether it is open/permissible for the management to do so in view of the provisions of Section 5 of the MEPS Act. Apart from this, since admittedly appointment is on probation, could it be now allowed to be said it was also for a stipulated period. This question becomes more crucial in view of the fact that management did not claim the termination of employment by efflux of time stipulated thereon but by issuance of positive order dated 25.06.2004, services came to be terminate.

12. At this stage it would be relevant to take note of the provisions of 5 of the MEPS Act which casts obligation on the management of private school, which read thus:

5. Certain obligations of Management of private schools.

(1) The Management shall, as soon as possible fill in, in the manner prescribed, every permanent vacancy in a private school by the appointment of a person duly qualified to fill such vacancy; [Provided that unless such vacancy is to be filled in by promotion, the Management shall, before proceeding to fill such vacancy, ascertain from the Educational Inspector, Greater Bombay, [the Education Officer, Zilla Parishad or, as the case may be, the Director or the officer designated by the Director in respect of schools imparting

technical, vocational, art or special education,][The proviso was added, by Maharashtra 30 of 1987, Section 5(a).] whether there is any suitable person available on the event of such person being available, the Management shall appoint that person in such vacancy.]

- (2) *Every person appointed to fill a permanent vacancy [except [Assistant Teacher (Probationary)]] [These words were inserted by Maharashtra 14 of 2007 Section 11(a), (w.e.f. 30.4.2007).]] 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.[Provided that, every person appointed as [Assistant Teacher (Probationary)]] [This proviso has added by Maharashtra 14 of 2007, Section 11(b), (w.e.f. 30.4.2007).] shall be on probation for a period of three years.]*
- (2A) *[Subject to the provisions of sub-sections (3) and (4), [Assistant Teacher (Probationary)] [Sub-section (2A) was Inserted by Maharashtra 14 of 2007, Section 11(c), (w.e.f. 30.4.2007).] shall, on completion of the probation period of three years, be deemed to have been appointed and confirmed as a teacher.]*
- (3) *If in the opinion of the Management, the work or behaviour of any probationer, during the period of his probation, is not satisfactory, the Management may terminate his services at any time during the said period after giving him one month's notice [or salary [or honorarium]] [These words were added by Maharashtra 30 of 1987, Section 5(b).] of one month in lie of notice.]*
- (4) *If the services of any probationer are*

terminated under sub-section (3) and he is reappointed by the Management in the same school or any other school belonging to it within a period of one year from the date on which his services were terminated, then the period of probation undergone by him previously shall be taken into consideration in calculating the required period of probation for the purposes of sub-section (2).

(4A) [Nothing in sub-section (2), (3) or (4) shall apply to a person appointed to fill a permanent vacancy by promotion or by absorption as provided under the proviso to sub-section (1).][Sub-section (4A) was inserted by Maharashtra 30 of 1987, Section 5(c).]

(5) The Management may fill in every temporary vacancy by appointing a person duly qualified to fill such vacancy. The order of appointment shall be drawn up in the form prescribed in that behalf, and shall state the period of appointment of such person.

13. Sub-section (1) mandates, management to appoint suitable person available against the permanent vacant post. Sub-section 2 and 2A of Section 5 of the MEPS Act requires person shall be appointed on probation for a period of two years or three years as case may be, subject to provisions of Section 3 and 4 and shall on completion of this probation period of two/three years be deemed to have been confirmed. Thus, sub-section 2A requires completion of probation period of three years for Assistant Teacher

(Probationer) to be deemed to have been appointed and confirmed as a Teacher.

14. There is challenge to the fact that the appointment of employee is against the permanent vacancy and that the said appointment was made on probation for a period of three years. Now question arises that the appointment of employee could be considered for the specific period as mentioned in order of appointment. Any such contention deserves no consideration for the reasons more than one. Firstly, the act of management of terminating services by separate order dated 25.06.2004 indicates that there was no automatic termination agreed between the parties. In such case, there was no question of issuance of separate letter of termination. Thus by conduct of management of issuance of order of termination, now it is estopped from claiming that appointment was for specific period. Apart from this, it was not open for management to make such appointment for specific period, without recording reasons for doing so. In this regard fruitful reference can be made to the judgment of Full Bench of this Court in case of *Ramkrishna Chauhan v. Seth D. M. High School & Ors.* 2013(3) All MR 1 (F.B.) wherein it is observed in para 13 as follows:

13. Indeed, this provision obliges the Management to fill in the permanent vacancy "as soon as possible". The term "as soon as possible" would mean that it has to be done within a reasonable time. That is a relative term. Nevertheless, by virtue of mandate of section 5(1), there is implicit obligation on the Management to fulfill that requirement at the earliest, to wit, before commencement of the new academic year. That is so because, a permanent vacancy is one, which is in respect of a sanctioned post and in the case of an aided school, entitles the Management to receive commensurate grants in aid from the Government. Further, the sanctioned post for a school is prescribed by the State Authority keeping in mind the benchmark to be maintained for imparting high quality education and maintaining discipline in the school - commensurate with the strength of the students in the school. Thus, keeping the permanent vacancy unfilled for a long time, may entail in dilution of imparting of quality education. A fortiori, though the Management has implicit power to appoint a duly qualified person on contractual employment even against a permanent vacancy but, that must be only an interim arrangement till a suitable candidate is found in the selection process. It cannot be continued on year to year basis in succession. If the Management holds the selection process in the prescribed manner but wants to appoint the selected candidate on temporary basis must contemporaneously record tangible reasons as to why the selected candidate is not suitable to be appointed on probation against the permanent vacancy. In that event, the Appropriate Authority can consider the challenge to the appointment on temporary basis instead of probation, against a permanent vacancy. Further, the Management, receiving grants in aid, from the Government, should not and cannot be permitted to appoint a duly qualified person on temporary basis against a permanent vacancy, without holding of selection process as soon as possible in the prescribed

manner. Besides, inspite of availability of a suitable candidate identified in the selection process held to fill in the permanent vacancy, the Management cannot appoint him on temporary basis against a permanent vacancy. Any other view would be antithesis to the mandate of Section 5(1) of the Act and against the principle underlying the exposition of the Apex Court in the case of Ratan Lal and Ors. Vs. State of Haryana and Ors., as it would be hit by Article 14 and 16 of the Constitution of India.

The above ruling is sufficient to hold that in absence of any recording of tangible reason, the appointment against permanent/vacant post cannot be considered to be for limited period. This Court therefore has no hesitation to hold that the appointment of the employee was against vacant/permanent post, on probation for the period of three years i.e. from 25.06.2001 to 24.06.2004.

15. Though it is sought to be argued on behalf of the management that the appointment was for a period of three academic years. Perusal of the order of appointment however, does not indicate that the said appointment of three academic years. It is specifically stated therein that the appointment would be from 25.06.2001 till completion of three years. Needless to say that the period of three years is completed in this case on 24.06.2004.

Now it can be allowed for management to change the term of appointment by claiming that it was for three academic year. An attempt was made by the counsel for management to canvass that period of three years of probation does not come to an end on 24.06.2004. However, said submissions deserves rejection, being sans merit. The period of three years would come to an end, a day before the anniversary of the date of appointment. Thus, it needs to be held and accordingly held that in the instant case the period of probation of three years has come to an end on 24.06.2004.

16. In view of these facts when there is undeniably appointment of employee on a permanent vacancy and on probation for a period of three years, whether he shall be deemed to have been appointed and confirmed in the service as teacher. At this stage it would be relevant to take note of the case law cited by rival sides. Full Bench of this Court in case of *Ram Avadh (supra)* has held as under:

6. The reference before the Full Bench will now stand covered by the amendments made by Maharashtra Act XIV of 2007. As a result of the amendment, it has been provided that every person appointed as Shikshan Sevak shall be on probation for a period of three years. Moreover, subject to the provisions of sub sections (3) and (4) of Section 5 a Shikshan Sevak shall on completion of the probation period of three years

be deemed to have been appointed and confirmed as a teacher. Incidentally, it may be necessary to note that the gazette notification dated 15th February, 2007 which is referred to in the definition of the expression 'Shikshan Sevak' in Clause (24A) of sub section (2) as amended incorporates the Government Resolution dated 13th October, 2000.

These observations are made by taking into consideration inclusion of Section 2A to the statute book.

The judgment relied upon by counsel for management in case of *Arvind (supra)* deals with the issue of termination of a probationer before completion of period of probation. Apart from this facts recorded therein indicate that the employee was terminated before completion of period of probation. Similar is the case, in the judgment in case of *Nilambari (supra)*. In the said case services of petitioner therein came to be terminated during the period of probation. In para 7 of the judgment it is specifically held that management is entitled to terminate services of employee during period of probation. In case of *Pen Shikshan Mahila Samiti (supra)* appointment of respondent therein was for academic year only. A reference is made by counsel for the management to judgment in case of *Gramin Shikshan Sanstha (supra)*. The facts of the said case indicates that the period of probation of employee was to complete on 11.04.2016 and by order dated 07.04.2016,

his services were terminated. The issue involved in the said judgment was about validity of the termination without notice or pay in lieu of notice. In fact in para 12 of the judgment, it is held that deeming provision of confirmation would apply only after period of probation is complete. This judgment therefore, does not support case of management in any manner.

17. One more aspect deserves consideration in the instant case is that admittedly termination has been effected by order dated 25.06.2004. Needless to say that the termination of an employee is not permissible to be effected retrospectively. Thus, it can not be held that the termination of employee has been done w.e.f. 24.06.2004, i.e. at the end of probation.

18. Now it would be relevant to consider the judgment of this Court in *Shivdutta (supra)*, on which great reliance is placed by the management in this case it is held by this Court in para 20 which reads thus:

20. The question is whether at the end of probation period the management is entitled to inform a Shikshan Sevak that due to the opinion of the management his services would no longer be required? In other words, whether at the end of probation period, the management can stop the Shikshan Sevak getting benefit of deeming

provisions of sub-section (2-A)? The answer, in my view, is in affirmative. If the management is entitled to terminate the services of Shikshan Sevak during the period of probation as provided in sub-section (3), one has to accept the possibility of the management deciding to express such opinion at the end of the probation period and deny such Shikshan Sevak the advantage of deeming provisions. The question would still arise as to whether at such occasion, the management is required to give one month's notice or salary/honorarium in lieu of such notice. The answer of this is in the negative. The probation period comes to an end by efflux of time. If management forms an opinion that performance of Shikshan Sevak was not satisfactory, they are at liberty to say so even at the end of probation. At such time, there is no need to give either a notice or salary of one month. The need to give one month notice or salary would arise only if termination takes place during the period of probation. A similar situation arose in the case of Akbar Peerbhoy College and others Vs. Mrs. Pramila N. Kutty and others. The learned single Judge considered similar provision from MEPS Rules. The relevant paragraphs of the judgment would suffice the purpose. 12. Rule 28(1) of the Rules of 1981 reads thus:

28. Removal or Termination of Service.- (1) The service of a temporary employee other than on probation may be terminated by the Management at any time without assigning any reason after giving one calendar month's notice or by passing one month's salary (pay and allowances, if any) in lieu of notice. In the case of an employee entitled to vacation, the notice shall not be given during the vacation or so as to cover any part of the vacation or within one month after vacation. 13. A look at the said rule would show that it provides that services of temporary employee who is not on probation may be terminated by the management at any time without assigning any reason provided one

calendar month's notice or one month's salary (pay and allowances, if any) in view of such notice has been given. In the said rule it cannot be read that where the service of a temporary employee comes to an end automatically by efflux of time as stated in the appointment order yet the management is obliged to give one calendar month's notice or to pay one month's salary to such temporary employee in lieu of notice. Rule 28(1) is attracted in a situation where either there is no period stated in the appointment order of such temporary employee and his services are sought to be brought to an end or where the period is stated in the appointment order of such temporary employee and the management intends to terminate the services of such temporary employee earlier than the period stated in the appointment order. Rule 28(1) does not contemplate nor does it envisage a situation of its compliance where the services of the temporary employee other than on probation comes to an end on the date stated in the appointment order. In other words, in a case where appointment of temporary employee is for a fixed period and the services of such a temporary employee comes to an end on the expiry of that fixed period, giving of the notice as contemplated under Rule 28(1) is not required nor any specific termination order is required to be passed because in the appointment order itself the period of appointment is fixed and on expiry of that period the appointment comes to an end automatically. It would be relevant to mention here that Schedule "D" appended to the Rules of 1981 provides for format of order of appointment of a temporary employee and in terms of such format the management is required to mention in the order of appointment that appointment of such employee was purely temporary for a period of particular period and after expiry of the said period the services of such employee shall stand terminated without any notice.

19. During the course of hearing this Court has expressed that the said judgment may be *per incuriam*. Learned counsel for the management submits that in such case this Court will have to make a reference to the larger bench if a different view is taken. However, after going through the said judgment carefully this Court finds what is held therein is that the management is entitled to terminate the services of the Shikshan Sevak during the period of probation as provided in sub-section 3, one has to accept the possibility of management deciding to express such opinion at the end of probation period and deny such Shikshan Sevak the advantage of deeming provision. What has been held therefore is that the termination can be effected at the end of the probation. It does not lay down the law that once period of probation is completed, such simpliciter termination is permissible.

20. In this regard reference can be made to the judgment of the Division Bench of this Court in a reported case of ***Anil Dattatraya Ade v. Presiding Officer, School Tribunal and Ors.*** **2003(4) Mh.L.J. 866**. The Division Bench of this Court while dealing with exactly the same fact as it appears in this case has held that once the probation period is completed, the employee could not have been terminated on the ground of alleged

unsatisfactory work and such termination would be illegal and deserves to be set aside. It is specifically observed that applying the provision of Section 5 of the MEPS Act the compliance becomes deemed confirm and then cannot be terminated from service except due procedure of law. Thus on the difference in facts and issue decided in judgment in case of *Shivdutta (supra)*, so also settled position of law on the point/issue involved in this petition, this is not the case wherein any reference is required to be made.

21. Now, coming to the core issue of deemed confirmation literal / dictionary meaning of word 'deemed to be' means something considered as being in a particular way, which might not be true and it implies assumption. This deeming provision made in MEPS Act is certainly with an aim that the management of private school, is prevented from victimizing the employees and this provision therefore need to be interpreted "*stricto sensu*". Any other interpretation would frustrate the legislative intent.

22. The deeming provision of confirmation indicates that for the purpose of confirmation such employee in the service, no further action or positive or otherwise act is required to be done by the parties. Thus in order to get confirmation, it was not even

necessary for the employee to sign muster roll on 25.06.2004. The findings recorded by the Tribunal that since he has not signed muster roll on 25.06.2004, and therefore, he cannot be deemed to have been confirmed is erroneous finding.

23. Suffice it to say that the law on the point of termination of the regular employee even on the allegation of misconduct is settled to say that the termination cannot be effected save and except by following process of law. Conducting an enquiry against the employee, this Court was sought to be impressed upon by the fact that show cause notices were issued to the employee during the period of probation and therefore, he is not entitled to be confirmed in the service. First of all after completion of probation and on being deemed confirmation in service, termination simpliciter is not permissible even if it is preceded by issuance of notices during period of probation. Apart from this perusal of the said notices filed on record indicates that the notices were issued on 28.02.2002, 22.06.2004, 01.03.2003, 28.02.2003, 27.06.2003 however, the school management did not find his services to be unsatisfactory and therefore, he was continued in the service and was allowed to complete period of probation. Though it is argued that there is

allegation against the employee that he had beaten a student. The said allegation relates to date 28.02.2003 and if there really was any substance in such allegation no prudent management would have continued the employee in the service when he was on probation. The continuation of the employee for a period of over a year thereafter indicates that there may not be substance in the said allegation. This assumes importance in view of specific allegation made by employee that since he refused to concede to demand of management of Rs.2 lacs, show cause notices were issued to him. Suffice it to say that even if it is the case of the management that there were misconduct committed by him once he is confirmed in the service, he could not have been terminated save and except by following due process of law and conducting an enquiry against him.

24. In view of the above, this Court finds justified reasons to cause interference in the order passed by the School Tribunal. In the facts of the case and having considered the provisions of the law and the binding precedents, this Court finds that the order of termination of the employee is illegal and hence it is set aside. The findings recorded by the Tribunal being perverse, is interfered with.

25. Now question arises as to whether the employee would be entitled for the back-wages in order to claim any back-wages, it is necessary for him at least to make statement before Court that he was not gainfully employed during the relevant period. Perusal of para 8 of memo of appeal indicates that he has made specific statement in that regard. In view of settled position of by the Hon'ble Supreme Court in ***Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya (D.ED.) and others (2013) 10 SCC 324*** burden must stand, shifted on otherwise, to prove that he was gainfully employed. The relevant observations of the Hon'ble Supreme Court read thus:

38.1. In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.

38.3. Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then it has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once

the employee shows that he was not employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.

In view of above facts and position of law, the petition deserves to be allowed by directing reinstatement of employee in service with full back-wages and continuity of service, by quashing order of termination.

In view of above discussion, petition stands allowed, in terms of prayer clause (A).

26. Learned Counsel for the respondent seek stay of this order for a period of six weeks, since the appeal was dismissed by the learned School Tribunal and this Court has allowed the appeal and directed reinstatement of employee, order passed by this Court stands stay for a period of six weeks to enable the respondent management to test this order before Hon'ble Supreme Court.

(R. M. JOSHI, J.)