



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

WRIT PETITION NO.1032/2023

PETITIONER : Sopandeo Rushiji Padole
Aged – 54 Years, Occu – Service,
R/o Tilaknagar, Bramhapuri, Tah -
Bramhapuri, Dist – Chandrapur.

...VERSUS...

RESPONDENTS : 1. Commissioner, Handicapped Welfare
Department, Maharashtra State, Pune – 01.

2. The Divisional Deputy Commissioner of
Social Welfare Department, Nagpur.

3. The District Social Welfare Officer,
Zilla Parishad, Chandrapur.

4. Apang Vikas Mandal,
Peth Ward, Bramhapuri, Tah – Bramhapuri,
Dist – Chandrapur, through its President

(Respondent No.4 deleted as per
Court's order dt. 11.1.2024. Amendment
carried out.)

Shri Pralhad Vithoba Dahikar
R/o Near Gajanan Mandir, Tilaknagar,
Bramhapuri, Dist – Chandrapur – 441206

(Added R-4 vide Court's order dt. 26/9/24)

Mr. PN. Shende, Advocate for petitioner
Ms Tajwar Khan, AGP for respondent Nos.1 and 2
Mr. PS. Kshirsagar, Advocate for respondent No.4

CORAM : NITIN W. SAMBRE AND
SACHIN S. DESHMUKH, JJ.
DATE : 01/07/2025

ORAL JUDGMENT : (PER : SACHIN S. DESHMUKH, J.)

1. Heard. Rule. Rule made returnable forthwith. Assistant Government Pleader Ms Tajwar Khan waives service of notice for the respondent Nos.1 to 3 and Advocate Mr. P.S. Kshirsagar waives service of notice for the respondent No.4. By consent of the parties the petition is heard finally.

2. The petitioner was appointed as an Assistant teacher in the wake of qualification possessed by him as a trained teacher in a school for specially abled students. Thereafter, the petitioner has acquired status of permanent teacher. However, in an unprecedented manner services were terminated by the school management on 01/10/2001. The order of termination was subject matter of appeal, which was eventually decided by the Appellate Authority – Deputy Commissioner, Social Welfare, Nagpur, who allowed the appeal setting aside the order of termination on 05/05/2016, which has attained finality. In the wake of the order of the Appellate Authority, the petitioner was reinstated and approval to services was also accorded by the District Social Welfare Officer, Zilla Parishad, Chandrapur on 05/12/2016. Preceded by the aforesaid fact, the order dated 07/09/2018 was rendered by the Commissioner, thereby revoking the certificate of registration of the

school where the petitioner was working. Although the petitioner was reinstated and services were regularized, however, service benefits on reinstatement upon the petitioner were not conferred by the authority. Therefore, the petitioner was before this Court in Writ Petition No.3801/2018, wherein this Hon'ble Court has upheld the entitlement of the petitioner for release of salary from the date of actual reinstatement in service till closure of the school. Since the said order was not complied by the authorities, Contempt Petition No.131/2021 was also taken out, ultimately the contempt stood purged. In the interregnum, the respondent No.4 who is another employee working in a school at Shirpur District Dhule was absorbed in place of the petitioner. Admittedly, the absorption of the concerned employee was subject to outcome of the proceedings presented by the petitioner herein. In the aforesaid backdrop, the petitioner has prayed that the service benefits to which the petitioner is entitled for after reinstatement may be conferred upon the petitioner. A further prayer is made that the order rendered by the Commissioner for Persons with Disabilities dated 04/03/2024, challenge to which is incorporated by way of amendment to the petition, is sought to be quashed and set aside, by which the petitioner is held to be ineligible for entitlement to the service benefits for absorption on the ground that the name of the petitioner is not

included in the Sevarth Pranali for the purpose of payment of salary since there was no recommendation for absorption.

3. In response to the same, reply is filed on behalf of the respondents – authorities, contending that the petitioner is not entitled for the benefits of absorption since the petitioner was not in service after closure of the school, as such consequential benefits to which petitioner is entitled, were not conferred, even on the ground of delay and laches. As such, the order rendered by the Commissioner is attempted to be justified.

4. After considering the litigating sides, it is an admitted fact that the entitlement for reinstatement of the petitioner is endorsed by the Appellate Authority. The decision rendered by the Appellate Authority/Regional Deputy Commissioner, Social Welfare, Nagpur has attained finality for want of further challenge. Nevertheless the same is culminated into issuance of order of approval dated 05/12/2016 from the initial date of appointment. It can be seen that the order of termination is set aside, which eventually conferred the benefits of reinstatement and the same has to be in relation to the initial date of appointment. Once the order of termination is set aside, the reinstatement is for all purposes including conferment of consequential

service benefits in its entirety. Even the approval, which is accorded by the authority dated 05/12/2016, in an unequivocal term states that the approval is accorded from initial date of appointment of the petitioner. Also status of the petitioner as a permanent employee entailing all the consequential benefits necessarily has to be considered. Equally, the Co-ordinate Bench of this Court has had an occasion to deal with the entitlement of the petitioner in Writ Petition No.3801/2018, wherein the Co-ordinate Bench has endorsed the entitlement of the petitioner. The relevant paragraph No.7 of the judgment in Writ Petition No.3801/2018 reads as under :

“7. In view of above, the petition is partly allowed. It is declared that the petitioners are entitled to release the salary from the date of their actual reinstatement in service till the closure of the school or retirement of the petitioner no.2 on superannuation, as the case may be and for the present, it is directed that the same shall be paid by respondent no.2.”

5. Our attention is also invited to the order of the Co-ordinate Bench in a petition presented by the employee, who was appointed as against the post which was occupied by the petitioner, on account of surplus declaration and eventual absorption, was before this Court in Writ Petition No.6986/2016. In the aforesaid petition, the order, terminating the said respondent No.4 which was issued on 05/12/2016 on account of reinstatement of the petitioner was stayed by the order

dated 15/12/2016, however, the said petition came to be disposed of on 28/02/2018 by directing the authority to send the proposal of the respondent No.4 for absorption in some other school. Thus, the event which has occurred in relation to the respondent No.4 about his absorption in place of the petitioner was dealt in detail and the authorities were directed to consider the claim of the respondent No.4 independently for the purpose of absorption. Thus, the entitlement of the petitioner as has been recorded by the Co-ordinate Bench in Writ Petition No.3801/2018 is undisputed. However, communication dated 04/03/2024 by which the entitlement of the petitioner for the purpose of absorption is turned down on the ground that the name of the petitioner is not included in Sevarth Pranali, as such, further inclusion is not made on the salary book nor there is any recommendation by the concerned authorities/in our considered opinion, once the entitlement for reinstatement is endorsed by the Appellate Authority and the same has attained finality. Same has culminated into issuance of approval which is also from the date of initial appointment. Therefore, it is now not open for the respondents - authorities herein to turn down the entitlement of the petitioner for absorption, which has attained finality. As such, entitlement of petitioner cannot be tinkered in the manner as has been done by the respondents – Authorities by ignoring the status of petitioner as a permanent employee. Therefore, the writ petition is

partly allowed. The impugned communication is hereby quashed and set aside. The respondents – authorities are directed to work out the entitlement of the petitioner for terminal benefits in its entirety, in light of the status of petitioner as a permanent employee.

6. Rule is made absolute in the aforesaid terms. No order as to costs.

(SACHIN S. DESHMUKH, J.)

(NITIN W. SAMBRE, J.)