



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

WRIT PETITION NO.7781/2019

Bhajendra s/o. Ruplal Harinkhede

Vs.

The State of Maharashtra and Ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. I. N. Choudhari, Advocate for Petitioner.
Ms S. S. Jachak, A.G.P. for Respondent No.1/State.
Mr. A. M. Dixit, Advocate for Respondent No.2.
Mr. C. M. Samarth, Advocate for Respondent Nos.3 and 4.

CORAM : NITIN W. SAMBRE AND
MRS.VRUSHALI V. JOSHI, JJ.

DATED : 08/05/2025.

1. Heard.

2. The prayer in the petition is for release of the arrears of salary from 16.08.2017 till this date and further to direct the respondent Management to pay the regular salary of the petitioner.

3. It is the case of the petitioner that he suffered an oral termination on 16.10.2019 before which he was on medical leave because of depression. Such oral termination was subjected to challenge in an appeal before the School Tribunal and the School Tribunal allowed such appeal on 14.07.2022. The learned Single Judge has allowed the writ petition of the respondent Management on 23.08.2023 with a direction to deposit 50% of the back wages.

4. The said 50% of the amount of back wages are informed to have been already deposited by the respondent which are lying with the School Tribunal.

5. The Tribunal after the remand by this Court again passed a fresh order on 04.04.2024 thereby allowing the appeal of the petitioner against the order of oral termination against which

we are informed that Writ Petition No. 2929/2024 is initiated by the respondent Management which is pending consideration.

6. In this background, it is the contention of the learned Counsel for the petitioner that till the period of oral termination i.e. 16.12.2019, the petitioner is entitled for release of the arrears of salary from 16.08.2017 till 15.12.2019. It is further claimed that further salary is also required to be paid in view of the order of the Tribunal dated 04.04.2024.

7. Since the respondent Management has questioned the order of Tribunal dated 04.04.2024, in Writ Petition No.2929/2024, we are restricting the claim of the petitioner for release of salary for a period from 16.08.2017 till 15.12.2019.

8. It is not in dispute that the petitioner is an approved teacher of the respondent and for non-payment of the salary, the respondent has come with a stand of abandonment of the services by the petitioner. Such stand of the respondent Management has been duly dealt with by the Tribunal in its order dated 04.04.2024 delivered in School Tribunal Appeal No.1/2020. The findings recorded by the Tribunal read thus :

“81. While considering the stands of the parties, it is worth mentioning here that the respondents say that they have not terminated the services of appellant but he himself abandoned the services, and due to want of proper medical certificate they are unable to join him. In the circumstances when the appellant was referred to Medical Board by respondents then why the necessary details regarding the medical leaves and application of the appellant were not submitted by respondent nos.1 to 3 which were asked by the Medical Board?

82. There are allegations of fraud i.e. forging the

signature of the headmistress by the appellant. The said fraud is admitted by the appellant on stamp paper. Then question arises what action was taken by the respondent nos.1 to 3 ?

83. One more aspect in the matter also needs to be considered that the respondent seems to have dropped the enquiry, as nothing is brought to the notice of Tribunal as to what had happened about the said enquiry and what is the stage therein ?

84. The over all scenario shows that the appellant is targeted for resistance of illegal demand of Rs.2,00,000/- by the respondent nos.1 to 3 and he is not permitted to sign the muster roll.”

9. The Tribunal thereafter proceeded to set aside the oral termination and directed the respondent Management to reinstate the appellant with full back wages and further directed to pay the costs of Rs.10,000/- by the respondent – Management to the petitioner.

10. It is the case of Mr. Choudhari, learned Counsel for the petitioner that though the order of the Tribunal is not stayed in Writ Petition No.2929/2024, the respondent Management till this date has not permitted him to resume his services.

11. We are not commenting on the said submissions of Mr. Choudhary as the said issue to the extent of legality of the order of the Tribunal is under consideration in the writ petition referred above.

12. We are equally required to be sensitive to the fact that in Writ Petition No. 2929/2024 the order of the Tribunal is not stayed and as such, the observations of the Tribunal referred above shall govern the proceedings before this Court.

13. The Tribunal has already recorded a finding that the petitioner never abandoned the services as has been claimed by the respondent Management.

14. In such an eventuality, there is no justifiable reason for respondent Management for not to release the salary in favour of the petitioner for the period from 16.08.2017 to 15.12.2019.

15. There is one more reason of which the Court must take note that viz. the respondent Management initially directed the petitioner to appear before the Civil Surgeon as he was on medical leave and it is the respondent Management who has not sent the medical papers for the medical examination of the petitioner and appropriate certification, such are the findings recorded by the Tribunal.

16. Apart from above, it is apparent that it is the Management who has not permitted the petitioner to join the services and rather directed the demand of money which has been specifically taken into account by the Tribunal. As such, we deem it appropriate to allow the petition with the following order :

i] Since the services of the petitioner are approved, we direct the respondent Management to submit the salary bills of the petitioner for the period from 16.08.2017 till 15.12.2019 to the respondent No.2 within a period of four weeks from today.

ii] A statement made by the petitioner that he shall extend all possible co-operation for drawing such bills is accepted.

iii] In case, if the Management submits the bills to the respondent No.2 within a period of four weeks, the respondent No.2 shall decide the same expeditiously and in any case, within a period of two weeks from the date of receipt of the same.

17. We make it clear that, in case if within six weeks the salary as claimed by the petitioner is not paid, the Management shall pay the entire salary from their own pocket for the aforesaid period i.e. from 16.08.2017 to 15.12.2019 and reimburse the same from the public exchequer if so admissible.

18. The petition as such stands allowed in the above terms.
No costs.

(MRS. VRUSHALI V. JOSHI, J.) (NITIN W. SAMBRE, J.)