IN THE HIGH COURT OF JUDICATURE OF BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.3490 OF 2009

Shri Pralhad Motiram Attarde
Age 59 years, Occ. Service/ Retired
R/o Plot No.18, Behind Central Jail,
Near Kala Bhawan,
Sindhi Colony Road, Jalgaon-425 001 … **PETITIONER**

VERSUS

1) The President,
Vidgaon Parisar Janta Vidya Mandal,
Vidgaon, Tal. & Dist. Jalgaon

2) Secretary, Vidgaon Parisar Janta
Vidya Mandal, Vidgaon,
Tal. & Dist. Jalgaon

3) Shri Yeshwant Vishwanath Narkhede
Age 50 years, Occ. Service
R/o “Vimal Vishwa”, 26/2, Vivekanand
Nagar, Jilha Peth, Jalgaon-425 001
(Illegally promoted as Headmaster)

4) Shri Chandrakant Popat Patil,
Age 56 years, Occ. Service,
C/o Late Abhiman Mahadu Warke Vidyalaya,
Vadgaon, At Vadgaon,
Tal. & Dist. Jalgaon

5) Shri Ravindra Amrut Patil,
Age 43 years, Occ. Service,
R/o C/o LateAbhiman Mahadu Warke
Vidyalaya, Vadgaon, At Vadgaon,
Tal. & Dist. Jalgaon

6) The State of Maharashtra,
Through Secretary,
Department of Education,
Mantralaya, Mumbai … **RESPONDENTS**

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Mr. S.B. Yawalkar, Advocate for petitioner
Mr. A.G. Talhar, Advocate for respondents No.1 to 5
Mr. S.G. Joshi, A.G.P. for respondent No.6 – State

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WITH

WRIT PETITION NO.4278 OF 2009

Shri Pralhad Motiram Attarde
Age 59 years, Occ. Service/ Retired
R/o Plot No.18, Behind Central Jail,
Near Kala Bhawan,
Sindhi Colony Road, Jalgaon-425 001 … **PETITIONER**

VERSUS

1) The President,
Vidgaon Parisar Janta Vidya Mandal,
Vidgaon, Tal. & Dist. Jalgaon

2) Secretary, Vidgaon Parisar Janta
Vidya Mandal, Vidgaon,
Tal. & Dist. Jalgaon

3) Headmaster, Late Abhiman Mahadu
Warke Vidyalaya, Vidgaon,
Tal. & Dist. Jalgaon

4) Shri Yeshwant Vishwanath Narkhede
Age 54 years, Occ. Service
R/o “Vimal Vishwa”, 26/2, Vivekanand
Nagar, Jilha Peth, Jalgaon-425 001
(Illegally promoted as Headmaster)

5) Shri Chandrakant Popat Patil,
Age 61 years, Occ. Service,
C/o Late Abhiman Mahadu Warke Vidyalaya,
Vadgaon, At Vadgaon,
Tal. & Dist. Jalgaon

6) The State of Maharashtra,
Through Secretary,
Department of Education,
Mantralaya, Mumbai … **RESPONDENTS**

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Mr. S.B. Yawalkar, Advocate for petitioner
Mr. A.G. Talhar, Advocate for respondents No.1 to 5
Mr. S.G. Joshi, A.G.P. for respondent No.6 – State

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CORAM : SACHIN S. DESHMUKH, J.

DATE : 30th OCTOBER, 2026

ORAL JUDGMENT :

1. The petitioner assails the judgment and order dated3/3/2009, passed by learned Presiding Officer, School Tribunal, Nashik in Appeal No.JAL/13/2004 and Appeal No.JAL/14/2005, dismissing the claim of the petitioner regarding promotion to the post of Supervisor vis-a-vis Headmaster.

2. Since the identical issue is involved in the present petitions, as such, both the petitions are taken up together.

3. Pursuant to declaration of the petitioner as surplus, the petitioner was absorbed with the respondent school as an Assistant

Teacher on 1/2/1975. It is the contention of the petitioner that, having rendered the continuous service, and in the wake of at first place, was entitled to be promoted as Supervisor became vacant on 1/1/2004 and eventually on the post of Headmaster, on 31/5/2005. At that juncture, the petitioner was served with the charge sheet, with an assertion that the certificate which was issued in relation to his declaration as surplus was found to be not genuine. With the aforesaid assertion, the claim of the petitioner for promotion was denied. Aggrieved by the same, the petitioner was before the School Tribunal. However, on the solitary ground that the enquiry initiated by the management is pending, as such, the appeals filed by the petitioner came to be dismissed.

4. Earlier, the wife of the petitioner was working with the respondent school, her services were terminated on 25/3/1991. Aggrieved by the same, appeal was presented, which came to be allowed. Further it was challenged in Writ Petition No.951/1992. Having suffered an order of reinstatement, to wreck vengeance, in order to defeat the legitimate claim of the petitioner, an enquiry was initiated after 40 years with the assertion of fake certificate of surplus declaration. On the basis of same the petitioner was absorbed with the school managed by respondent management.

5. Learned counsel for the petitioner vehemently submitted that, the management has acted maliciously in order to defeat the claim of promotion to the petitioner, at first place on the post of Supervisor which fell vacant on 1/1/2004 and thereafter on the post of Headmaster, which fell vacant on 31/5/2005. The Tribunal has committed an error while dismissing the appeal on the solitary ground that the enquiry initiated against the petitioner is pending.

6. Learned counsel for the petitioner further submitted that it is a matter of record that, so far as the enquiry which was initiated at the fag end of the services of the petitioner. This Court, in Writ Petition No.4443/2008, initially stayed the enquiry and eventually, by order dated 31/8/2018, allowed the said Writ Petition and quashed and set aside the said enquiry. Therefore, the order of the Tribunal is unsustainable in law and liable to be quashed and set aside. As such, prayed to allow the petitions.

7. Per contra, Mr. Talhar, learned counsel for respondents No.1 to 5 supported the orders under challenge, submitting that, having revealed the fact that the petitioner has received the benefit of the certificate which was not genuine, as such, the management

was justified in initiating the enquiry. As such, prayed for dismissal of the petition.

8. Upon hearing the respective counsel for the litigating sides and perusal of the material on record, admittedly, the Division Bench of this Court, by its order dated 31/8/2018, has allowed the petition presented by the petitioner, and quashed the charge sheet dated 25/09/2008 and set aside the enquiry which was initiated at the fag end of the services of the petitioner.

9. Nevertheless, the fact reveals that, the petitioner as also the wife of the petitioner were working with the respondent management. Having failed to ensure termination of the services of the wife of the petitioner, and preceded b the same, when the petitioner was about to attain the age of superannuation, and in any case, after 40 long years, the assertion was levelled for the first time that the certificate declaring the petitioner surplus was found to be not genuine. In any case the said charge and eventual enquiry same is undone by this Court. Therefore, I am of the considered view that the Tribunal has committed an error while dismissing the claim of the petitioner. Therefore, the impugned judgments and orders passed by the Tribunal are liable to be quashed and set aside.

10. However, considering the fact that the petitioner has attained the age of superannuation in the year 2008, necessarily the petitioner shall be conferred with the benefit of promotional avenue those shall be calculated and conferred upon the petitioner.

11. In the result, both the Writ Petitions are allowed in terms of prayer clauses (B).

12. The respondent management shall submit the comprehensive proposal, complete in all respects, with the office of the Education Officer within a period of two weeks from today.

13. Upon receipt of such proposal, the Education Officer shall process the same immediately and confer the benefit to the petitioner qua the date of promotion of Supervisor with effect from 1/1/2004 and on the post of Headmaster, with effect from 31/5/2005.

14. Thus, it is evident that, the act of the management was rather deliberate and to defeat to the legitimate entitlement of the petitioner to be promoted on the post, at first place, Supervisor and eventually on the post of Headmaster is apparent, in any case, for an unauthorised purpose which constitutes a malice in law. Having

failed to ensure termination of the services of the wife of the petitioner, the action was apparently initiated against the petitioner after lapse of four decades to defeat the lawful entitlement for promotion. As such, costs will have to be mulcted. The respondent management shall pay costs of Rs.10,000/- (Rupees ten thousand) in each petition to the petitioner within a period of four weeks from today.

15. Rule made absolute in above terms.

(SACHIN S. DESHMUKH, J.)

fmp/-