VINA ARVIND KHADPE
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10849 OF 2009

Usha Shamrao Khubikar … Petitioner
Versus
The State of Maharashtra and ors. … Respondents

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Mr. Nitin P. Deshpande (through VC) for the Petitioner.
Dr. Dhruti Kapadia, AGP for Respondent Nos. 1 and 2 / State.
None for Respondent Nos.3 and 4.

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CORAM : M.M. SATHAYE, J.
DATE : 6th OCTOBER, 2026

P.C. :

1. The Petitioner is challenging the Judgment and Order dated 31.07.2009 passed by the Presiding Officer, School Tribunal, Pune Region, Pune ('the Tribunal', for short) in Appeal No.7 of 2009. By the said impugned order, the Appeal filed by the Petitioner is dismissed. The Petitioner had filed an appeal under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and the Rules of 1981 made thereunder ('the said Act' and 'the said Rules' for short), challenging her 'otherwise termination' of services on 16.6.2008 from the post of part-time teacher in the Higher Secondary School.

2. The Petitioner filed the said appeal contending *inter alia* that the Management had initially appointed the Petitioner as a part-time teacher in the Junior College by an appointment order dated 21.08.1992 for one year and had issued appointment orders from year to year till academic year 2005-2006. She contended that

thereafter an appointment order was issued on 21.09.2005 appointing her on a full-time basis and on probation for two years, assigning work of teaching in two Junior Colleges, which were in fact two part-time posts. She contended that the concerned Educational Authority did not approve the said full-time appointment for which Writ Petition No.8783 of 2007 was filed and its decision was pending at the relevant time. In view of refusal of approval, the Management brought the Petitioner back to her former post of part-time teacher by issuing a fresh appointment order for the academic year 2006-2007 and 2007-2008. However, it was not approved, citing the pendency of the Writ Petition. According to the Petitioner, she was qualified for the said post, and her appointment was made after issuing advertisement. However, after the academic year started in June 2008, she was not allowed to sign the muster roll which amounted to otherwise termination.

3. The Respondent / Management filed a Reply contending, *inter alia* that the Petitioner was not appointed on probation. It is contended that the appointment was on a part-time basis for a particular academic year and no grievance was raised in that respect. It is contended that though the Petitioner was given an appointment on full-time basis by clubbing the workload of two part-time teachers in two different colleges, the same was not approved. It is contended that with a view to protect the Petitioner's services, she was brought back to the previous post as a part-time teacher. It is contended that, at the end of every academic year she was issued the relevant memo, which she had accepted and never raised any grievance; hence, she

was estopped from raising a grievance now. It is further contended that the Petitioner did not possess the necessary qualification of B.Ed degree; however, the Management tried its best to accommodate her in part-time post; however, her service under the last appointment came to an end on 30.4.2008 and therefore, there was no otherwise termination as alleged.

4. The Tribunal, after considering the material on record, dismissed the Appeal under the impugned order.

5. In these circumstances, the Petitioner filed this Writ Petition, which was admitted on 05.01.2010. No interim relief was granted.

6. Learned Counsel for the Petitioner, Mr. Deshpande submitted that the Tribunal has not considered the material on record in its proper perspective and it ought to have held that the situation amounted to otherwise termination. He submitted that the appeal ought to have been allowed.

7. None appeared for the Respondent/Management, though duly served and despite advocate being engaged. Learned APP has supported the impugned order.

8. I have considered the submissions made on behalf of the Petitioner. I have perused the impugned order.

9. On considering the educational qualification of the Petitioner in detail and comparing it against the qualification required for the post involved, the Tribunal has held that the requisite educational

qualification for the concerned post was 'M.A. in Economics with B.Ed'. The Tribunal has then considered the admitted position about the Petitioner's educational qualification which was 'M.A. in Economics with B.P.Ed'. The Tribunal has considered that, at the time of Petitioner's initial appointment in August 1992, though she possessed one of the requisite qualifications (M.A. in Economics), she lacked the other qualification required (B.Ed.) which she acquired in April, 2008.

10. The Tribunal has considered the argument about alleged equivalence of qualification of B.P.Ed and B.Ed and considering the case law, as discussed in paragraph nos. 14 & 15 of the impugned order, the Tribunal has concluded that since the B.P.Ed qualification of the Petitioner did not have Economics as a subject, her qualification cannot be taken as equivalent to B.Ed.

11. The Tribunal has also considered Government Resolutions dated 01.06.2000 and 22.06.1984 regarding equivalence. The Tribunal has held that the same applies to primary shool teachers (and not Junior college) and for the purpose of scale, promotion etc. and would not help the case of the Petitioner.

12. The Tribunal has rightly considered that possessing the requisite qualification for any post is a *sine qua non* and considering that the Petitioner did not possess the requisite qualification, the appointment could not be held as valid in the eyes of law.

13. The Tribunal has further considered that the Respondent/ Management has produced on record, a memo showing that the

Petitioner was duly relieved from the service, which bears the Petitioner's signature. The Tribunal has also held on facts, that from the record, it is seen that the Respondent/Management has tried its level best to accommodate the Petitioner on the part-time post.

14. In the aforesaid facts and circumstances and for the reasons indicated above, the view taken by the Tribunal is a probable view. No perversity is found in the impugned order. Therefore, there is no reason to interfere.

15. Writ Petition is accordingly dismissed. Rule is discharged. No order as to costs.

16. All concerned to act on duly authenticated or digitally signed QR verifiable copy of this order.

(M.M. SATHAYE, J.)