

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 2187 OF 1996

Smt. Rajani Nivruti Zinjurde.... Petitioner

versus

Head Masger,
K.V.High School,
Jawhar and others Respondents.

Shri R.S.Apte for the petitioner
Shri B.M. Purandare for Respondents 1 and 2.
Shri R.M. Patne AGP for Respds. 4 and 5.

CORAM; A.P. DESHPANDE, J.
DATED; 31ST JANUARY, 2007.

JUDGMENT;

1. The petitioner was appointed as Assistant teacher in a secondary school by name K.V.High School. It is administered and managed by the respondent no.3 Education Society. The petitioner was possessing the requisite qualification of B.A.B.Ed. and was thus eligible for being appointed as Assistant teacher in a secondary school. Initial appointment of the petitioner is with effect from 14-6-1989 which was for a period of one year. Thereafter every year the petitioner was continued in service till the year 1995. For the period commencing from 1989 to 1995 the appointment of the petitioner was granted approval by the education officer every year for a period of one academic session. In the year 1995 the

education officer declined to approve the appointment of the petitioner solely with a view to pressurise the management to fill in the backlog as according to the education officer, the management had failed to fill in the backlog. The record does not reveal that the petitioner was appointed against the post reserved for any backward class candidates. None of the appointment orders make reference to that effect. The school committee passed a resolution on 11-10-1995 to the effect that the petitioner should be confirmed in service. On account of failure on the part of the education officer to grant approval to the appointment of the petitioner, the present writ petition came to be filed. This court, while issuing rule, has granted interim relief in terms of prayer clause

(d) which reads thus:

"Pending the hearing and final disposal of this petition, the respondents their agents, servants, subordiantes etc. be restrained by an order and injunction of this Hon'ble court from terminating the services of the petitioner and further directing the respondents to continue the petitioner without any break in service and directing respondents 4 and 5 to pay and go on paying regularly the salary including increments, allowances etc. to the petitioner and give

the petitioner all consequential benefits of
such continuation."

2. On account of passing of the interim order, it is not in dispute that the petitioner is still continuing in service and is being paid salary from the grants released by the State Government. The order of approval passed by the education officer dated 18-4-1996, a copy of which is placed on record and marked for the purpose of identification as "X" is placed on record. Perusal of the said order clearly reveals that the petitioner's appointment has been approved with effect from 13-6-1995 subject to final decision of this writ petition. The petitioner is in continuous un-interrupted service since the year 1989 till the date. Ends of justice would be met by converting the interim order into final order. Nonetheless it shall be open for the education officer to insist removal of backlog if any, as and when subsequent vacancies are filled in by the management.

3. In the result, the writ petition succeeds and is allowed. The education officer is directed to grant permanent approval to the appointment of the petitioner together with all incidental and ancillary relief flowing therefrom.

4. In view of this the civil application is also disposed of.

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