

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 103 / 2021 (D.B.)**

Shri Pramod S/o Dadarao Raut,
Aged about 56 years, Occupation:-Service,
Assistant Deputy Education Inspector, Office of Education Officer (Secondary),
Zilla Parishad, Amravati, R/o 31, Shrivikas Colony,
Rukmini Nagar, Amravati.

Applicant.

Versus

- 1) State of Maharashtra through its Secretary,
School Education and Sports Department,
Mantralaya, Mumbai- 400 032.
- 2) State of Maharashtra,
Through its Secretary,
General Administration Department,
Mantralaya, Mumbai-400 032.
- 3) The Deputy Director of Education,
Amravati Division, Amravati.
- 4) The Education Officer (Secondary),
Zilla Parishad, Amravati.

Respondents

Shri P.A.Jibhkate, the Id. Advocate for the applicant.

Shri S.A.Deo, the Id. C.P.O. for the State.

Coram :- Hon'ble Shri Shree Bhagwan, Vice Chairman.

JUDGMENT

Judgment is reserved on 02nd February, 2021.

Judgment is pronounced on 09th February, 2021.

Heard Shri P.A.Jibhkate, Id. counsel for the applicant and Shri S.A.Deo,
Id. C.P.O. for the State.

2. The applicant joined in service on 26.12.1994 in the office of
Administrative Officer, Municipal Council, Ghatanji, Yavatmal as per Annexure-A-10,

P.B., Pg. No. 85. As per documents submitted by Municipal Council, Ghatanji at P.B., Pg. No. 101; applicant submitted application for change in D.O.B. and that was forwarded by Municipal Council, Ghatanji as shown by their outward register on dated 03.06.1999; this procedure was done as per G.R. dated 03.03.1998 at P.B., Pg. Nos. 59 to 61 (both inclusives).

3. First application of applicant is dated 03.06.1999 at P.B., Pg. No. 48 which was forwarded by Chief Officer, Municipal Council, Ghatanji to Deputy Director, Education, Amravati by Annexure-A-4, P.B., Pg. No. 47 on the same date i.e. 30.06.1999 in his representation; applicant has mentioned that his father wrongly mentioned the date of birth i.e. 08.01.1963 in school register and that was mentioned in school leaving certificate and on that basis in the service record also the same date was taken; but his actual D.O.B. is 07.01.1964 and he made representation as per relevant G.R. within five years of joining service. The main documents on which he placed reliance is his Birth Certificate by Municipality Wardha on P.B., Pg. No. 108 where his D.O.B. is written as 07.01.1964. He is also placed abstract of Section-1-Forma (A) Birth Register at P.B., Pg. No. 51 where in Column No. 3, date is mentioned as 07.01.1964.

4. After Tribunal order, when matter was heard by Deputy Director, Education, Amravati District. This facts were not considered, again matter was remanded back vide order dated 15.01.2021 (Annexure-A-14, P.B., Pg. No. 103 to 105). Since, applicant was retired on 31.01.2021 as per his D.O.B. i.e. 08.01.1963; 10 days time was given to respondent no. 3 to review its own order.

5. It appears that if that has not been done and the records on P.B., Pg. No. 108 and applicant's representation dated 30.06.1999 (Annexure-A-4, P.B., Pg. No. 48) outward register of Municipal Council, Ghatanji on P.B., Pg. No. 57 has not been considered by respondent no. 3 dated 29.01.2021 and subsequently he has pointed out para nos. 5, 6 and 11 and the same findings which are reproduced below:-

5- vkt e[; kf/kdkjh] u-i- ?kVat h ; kpsi frfu/khuu ts tkod ukmogh nk[kfoyh R; ke/; syky 'kkbZ/; s T; k ukmh vkgs R; kpsvkf.k 193 dæakkoj fuG; k 'kkbZs?kryY; k ukmhr glrk{kjkæ/; sQjd vkgs ; k fo"k; h e[; kf/kdkjh] u-i- ?kVat h ; kpsi frfu/khuu fopkjysvl rk R; kauh l kfxrysdh] tkod ukmogh/; sfnukad 30-06-1999 yk , d p i=kph ukm vkgs R; keGsr; k rkj [kyk dBykgh i=0; ogkj >kyyk ukgh dk; ? ; koj R; kauh dkfggh mRrj fnysukgh- e[; kf/kdkjh] u-i- ?kVat h ; kauh l ukko.khyk mi fLFkr jkg.ksvko'; d gkrs rFkfi R; kauh vuifLFkrh clcr i jokuxh ?kryyh ukgh- R; kauh i frfu/th i kBfoyk ; kpkp vFiz ; k dk; kzy; kr l ukko.khps

Bd.; kr vkyh vkg; kph i pZiYi uk eq[; kf/kdkjh] u-i- ?kVat h ; kauk gkrh- ; k eq k ckr Jh-i h-Mh-jkmr ; kauk fopkj.kk dshh vl rk l nj ckc gh dk; ky; k'kh l i/kr vl Y; kus; kckr eh dkghgh l kac'kdr ukgh vl s l kixrys tkod ukmoghry ukn Jh ; ksk MkO o Jh- i h Mh jkmr ; kauk nk[kfo.; kr vkyh-

6- t[; k tUerj [keGsl i/kr depk&; kl 'kkl u l or i dsk djrkauk dkgh Ok; nk feGkyk vkgfcdok dl ? ; kckr Jh- jkmr ; kauk fopkj.kk dshh vl rk Jh- jkmr ; kauh l kixrysdh] ek>k tUe 1964 pk vl u rFkhy uxj i fj"knB; k ukmogh ek>; k tUekph ukn vl u R; kpsi ek.ki = eh feGfoysvkgso rsl ukno.khe/; s l knj dshh vl rk Jh- jkmr ; kauk l nj i ek.ki=kpk vupkcked fopkjy vl rk R; kauh rls28 vl k l kixryk- ek= i ek.ki = cf?krsvl rk vupkckedke/; s [kkMrdM vl Y; kps tk.kors rlsdcked 20 fdok 27 fdok 28 ; ki dsh- , d vl Y; kpsnl u ; rs

11- ; kurj dskkyk dkghgh Eg.ko; kpsul Y; keGsl ukno.khpsdckedt ; kpk Fkikfo.; kr vkys

fu"d"l

- 1- l ukno.khe/; seq[; kf/kdkjh u-i- ?kVat h gs vuq fLFkr gkr s R; kuh R; kps i frfu/th Jh- ; ksk MkO] i zkk l u vf/kdkjh ; kauk l ukno.khdjhrk i kBfoys l ukno.khe/; s Jh MkO ; kauk dkgh iz u fopkj.; kr vkys i jarq rsmRrj nm 'kdys ukgh- R; kauh QDr eG tkod ukmogh l kcr vk.kyh gkrh o rh l ukno.khpsdcked nk[kfoyh-
- 2- u-i- ?kVat h dk; ky; kP; k tkod ukmoghe/; sfnukd 30-06-1999 jksh QDr , dp i = tkod >KY; kpsnl u vkys l nj i = f'k{k.k mi l pkyd] vejkorh foHkkx] vejkorh ; kauk i kBo.; ; kr vkys vl Y; kpsnl rsi jarq; k dk; ky; kl gsi = ; k dk; ky; kl i ktr >kysfcdok ukgh ; kckrph 'kgkfu 'kk Jh- jkmr ; kauh dsh; kpsnl u ; s ukgh- rl p ; kckrpk i jkok l knj d : 'kdys ukgh-
- 3- fn-30-06-1999 ps i = u-i- ?kVat h ; kps dk; ky; kru Mkcd ukmsus i kp i korhl g dsh; kps nLr, otko: u fnl u ; rs i jarq Jh jkmr MkO ; kauh l nj i = kP; k i kp i korhph Nk; ki r ; k dk; ky; kl l knj dshh ukgh- R; keG; k dk; ky; kl l nj i = feGkyfcdok ukgh ; kpk csk gkr ukgh-
- 4- Jh- jkmr ; kauk rikl .kh l phrhy eq k dz 9 fo"K; h HkkMkps tUerj [kckcrps i jkok l knj dj.; ; k ckr l ipr dshh gkr s i jarq Jh- jkmr ; kauh ; kckr dskrkgh i jkok l knj dshh ukgh-
- 5- Uk-i- ?kVat h ; kpsdMhu l knj dshh; k nLr, otkrhy ukmhuq kj 193 dekckoj QDr l oki l rdcr tUerj [kph nq Lrh dj.; ; kckr , o<hp ukn vl u l njph tUerjkh [k dskR; k depk&; kph vkg; k ckrpk mYys [k R; ke/; sfnl u ; s ukgh- R; keGsl nj nLr, ot foJol fu; okVr ul R; keGsxkg /kj rk ; skj ukgh-

6. Now the pertinent question is that certificate of Municipality, Wardha which is showing D.O.B. as 07.01.1964 on P.B., Pg. No. 108, whether that was submitted by applicant along with his original representation dated 30.06.1999 and whether that documents reached to respondent no. 3 at appropriate time or not?

7. The Id. C.P.O. has relied upon the Hon'ble Apex Court Judgment in **Pramatha Nath Choudhary V. State of West Bengal, 1981 (1) SLR 570 in Civil**

Appeal No. 4725 of 1995 dated 21.04.1995. As submitted by Id. counsel for the applicant he submits that the documents at P.B., Pg. No. 51 that is extract of Birth Register was submitted by his representation dated 30.06.1999 but when he was asked to submit fresh documents he got only Birth Certificate of Municipality Wardha and that certificate was submitted during course of hearing on 28.01.2021 to Deputy Director Office as per document at Annexure-A-5, P.B., Pg. No. 106. The Id. counsel for the applicant has made submission about Section 24 of Tribunal Act regarding interim order. However, since in this case interim relief was not granted at this stage. The Id. counsel for the applicant has placed reliance on **W.P.No. 1834 of 1992 decided on 16.1.1992 in Maharashtra Shikshan Sanstha, Nagpur Vs. Education Officer, Zilla Parishad, Nagpur** and he is mainly relying on para nos. 16, 17 and 18 of the Judgment, which are reproduced below:-

" 16. Be that as it may, in our view the powers to grant appropriate interim relief in appeal before the School Tribunal can be spelt out from the power conferred upon the School Tribunal under Clause (f) of section 1(2) of the Act, which we have adverted to earlier. According to the said clause (f) of section 11(2) of the Act, the School Tribunal has power to give such other relief to the employee and to observe such other conditions as it may specify, having regard to the circumstances of the case. As hereinbefore stated, the said power is conferred upon the School Tribunal to do justice between the parties. There is no reason to limit the expression "such other relief" therein to the relief to be granted by it in its final order. It should also include in appropriate cases, the interim relief to be granted by it in the facts and circumstances of the case before it. The School Tribunal is given full powers substantive as well as procedural, and there is no reason to limit its powers to grant interim relief only because under section 10(1) the express power conferred is to grant stay of the operation of any other appealed against before it.

16A. In the above reasoning, we draw support from the judgment of the Supreme Court in the case of Management of Hotel Imperial, New Delhi v. Hotel Workers' Union, . It was held by the Supreme Court in para 22 of its judgment in the above case that the words "incidental thereto" occurring in section 10(4) of the Industrial Disputes Act, 1947 requiring the Industrial Tribunal to confine its adjudication to the point referred to it and matters incidental thereto would include the question of grant of interim relief pending adjudication of the reference before the Industrial Tribunal. It is specifically pointed out in the said para that if the question of reinstatement and/or compensation was referred to the Industrial Tribunal for adjudication, the question of granting interim relief till the decision of the Tribunal with respect of the said matter would be a matter incidental thereto under section 10(4) of the aforesaid Act. It is however, pointed out by the Supreme Court in para 23 of its judgment in the above case

that ordinarily interim relief should not be the whole relief that the workman would get if he would succeed finally.

17. The next question which arises for consideration is about the broad principles to be followed by the School Tribunal in granting interim relief to the employee in the appeal filed by him before it. It is necessary to see that for exercise of the powers under section 11 of the Act, the said section requires that the opposite party should be heard by the School Tribunal before any order is passed by it. Normally, if the order to direct reinstatement pending decision is to be passed at an interlocutory stage, there is no reason why the opposite party should not be heard before any such interim order is passed at an interlocutory stage, because the said interim order is claimed when the termination of service has already become effective. It is highly desirable that before passing any interim order of a mandatory nature, the opposite party should be heard, which would be consistent with the principles of natural justice.

18. Apart from the above procedural consideration, it is necessary for the School Tribunal to bear in mind the principle, that, even though it may find that there is prima facie case and balance of convenience in favour of the appellant employee for granting interim relief in his favour, such an interim relief should not normally be the whole relief which can be granted only if the appellant employee succeeds finally. For instance, in appropriate cases, the School Tribunal can direct reinstatement pending decision of the appeal before it on payment of part of the salary payable to the employee concerned, or in other appropriate cases i.e. where reinstatement may not be a proper relief, it may grant the employee concerned payment of some lump sum amount which can ultimately be adjusted when he finally succeeds. In passing such interim order, it is open to the School Tribunal to impose certain condition as to security etc. as it may think fit and proper. It is, however, made clear that the above principles about grant of interim relief or its form or nature are not exhaustive and the interim relief can be granted or refused by the School Tribunal upon such other considerations as may be found relevant by it in the facts and circumstances of each case before it. Similarly, it is open to it to mould the interim relief in a manner which would be just and proper in the case before it."

8. In the light of above discussions and Hon'ble Apex Court Judgment in **Pramatha Nath Choudhary V. State of West Bengal, 1981 (1) SLR 570 in Civil Appeal No. 4725 of 1995 dated 21.04.1995** as relied upon by Id. C.P.O., applicant fail to make case during course of hearing before Respondent no. 3 i.e. Deputy Director of Education, Amravati.

9. The applicant stood retired on superannuation on 31.01.2021.

10. In view of this situations, this Tribunal does not find any reason to interfere with the decisions taken by Respondent no. 3. Hence, this Tribunal does not require to interfere with the decisions taken by respondent no. 3 after hearing the applicant. Hence the O.A. requires to be dismissed. In view of this, following order:-

ORDER

1. The Original Application stands dismissed.
2. No order as to costs.

**(Shri Shree Bhagwan)
Vice Chairman**

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno	:	Akhilesh Parasnath Srivastava.
Court Name	:	Court of Hon'ble Vice Chairman.
Judgment signed on and pronounced on	:	02/02/2021.
Uploaded on	:	09/02/2021.