

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTIONCIVIL APPEAL NO. 757 OF 2008

MAHARASHTRA SHIKSHAN SANSTHA & ANR. Appellant(s)

VERSUS

DILIP GANPATRAO LANJEWAR & ANR. Respondent(s)

J U D G M E N TKURIAN, J.

1. Respondent No. 1 was appointed initially for a period of 10 months i.e. from 01.07.1990 to 30.04.1991. After a period of two months (apparently summer vacation), the respondent was again appointed as teacher for a period of 10 months. Thereafter, he was discontinued from service.

2. The respondent challenged the same before the School Tribunal. The Tribunal held that the discontinuance was illegal. Therefore, an order was passed to reinstate the respondent with all consequential benefits.

3. The same was challenged by the appellant - Management before the High Court. The writ petition was dismissed. The appellant still pursued the matter before the Division Bench in an intra-court

appeal. The appeal was also dismissed.

Hence, this appeal.

4. Mr. A. V. Mohta, learned senior counsel appearing for the appellants, placing heavy reliance on the decision of this Court in Hindustan Education Society and Anr. Vs. S. K. Kaleem S. K. Gulam Nabi and Ors. (Civil Appeal No. 1971 of 1997) dated 10.03.1997, submits that the respondent having accepted an appointment for a fixed period, cannot claim continuance in the school. However, on the facts, we find that it was an appointment against a permanent vacancy, which is not disputed either before the Tribunal or before the High Court.

5. In that view of the matter, we are also of the view that the High Court has rightly distinguished the case of Hindustan Education Society (supra) with the present case.

6. The respondent has been out of service since 1992. We are informed that he would be otherwise due to superannuate in the year 2019. Having regard to the entire facts and circumstances of the case, we are of the view that this is a case where the respondent should not be granted the backwages and except that, he should be entitled to all other

service benefits. Therefore, this appeal is disposed of with the following directions :-

i) The interim order granted by this Court is vacated.

ii) The respondent shall be reinstated in service forthwith.

iii) The respondent shall be entitled to all service benefits including continuity of service for all purposes, except the actual backwages for the period he has not worked in the school.

No costs.

.....J.
[KURIAN JOSEPH]

.....J.
[R. BANUMATHI]

New Delhi;
March 22, 2017.

JUDGMENT