

CASE NO.:
Appeal (civil) 621 of 2008

PETITIONER:
SHIVAJI SHIKSHAN PRASARAK MANDAL & ANR

RESPONDENT:
DAYARAM & ANR

DATE OF JUDGMENT: 23/01/2008

BENCH:
H.K. SEMA & LOKESHWAR SINGH PANTA

JUDGMENT:
JUDGMENT

O R D E R

CIVIL APPEAL NO.621 OF 2008
(arising out of SLP(C)No.14469/2005)

Leave granted.

Heard the parties.

This appeal filed by the Management is directed against the judgment dated 04.04.2005 passed by the High Court of Judicature at Bombay, Nagpur Bench, Nagpur in Writ Petition No.145 of 2005 dismissing the petition filed by the appellants and confirming the order dated 22.09.2004 passed by the School Tribunal, Nagpur. By the said order the School Tribunal set aside the order of termination of the respondent-employee and directed his reinstatement on the full back wages.

Briefly stated the facts are as follows :

The respondent No.1 herein was appointed as Assistant Teacher on probation by an order dated 29.12.1993, vide order dated 10.02.1995 passed by the Education Officer the appointment was approved till the end

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of academic session. It appears that the communication was received from the Education Officer(Secondary) that two Sections, namely, VIIth and IXth classes of the School have been reduced for the session 1995-96. Pursuant to the aforesaid communication the service of the respondent-employee was rendered surplus in view of reduction of standard VIIth for the session 1995-96 by an order dated 15.12.1995. Aggrieved thereby, the respondent filed an appeal before the School Tribunal. The School Tribunal by the impugned order while setting aside the order of termination, directed the management reinstatement with full back wages. As already noted writ petition before the High Court without any reason has been dismissed. Hence this appeal by special leave.

This Court on 01.08.2005 issued notice limited to the question of grant of full back wages.

It is not disputed that the respondent did not render any service to the Institute from 15.12.1995 till reinstatement on 03.05.2005. On applying the principle of no work no pay the respondent shall not be entitled for the period when he has not rendered any service to the Institute. At the same time, we also have to take note that the order of termination dated 15.12.1995 stands quashed by an order of Tribunal on 22.09.2004, therefore, in our view, the ends of justice would be secured if we direct the

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appellant-management to pay the back wages to the respondent-employee with effect

from 22.09.2004 the date on which the Tribunal rendered its judgment setting aside the order of termination. According to us, this view is equitable and would serve the ends of justice. Accordingly, the order of the School Tribunal and the High Court with regard to the payment of back wages are modified to the extent that the respondent would get back wages with effect from 22.09.2004 till his reinstatement.

The appeal is disposed of in the above terms. The appellant shall pay the back wages to the respondent within two months from today.

JUDIS