

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.7542 OF 2009

(Arising out of S.L.P. (C) No.24654 of 2008)

Prakash Kisan Shirke

...Appellant(s)

Versus

Koyana Education Society and Ors.

...Respondent(s)

O R D E R

Leave granted.

This appeal is directed against the order dated 30th June, 2008, passed by the High Court of Judicature at Bombay in L.P.A. No.120 of 2008 in Writ Petition No.4166 of 1997.

The brief facts, which are relevant for the purpose of disposal of this appeal, are recapitulated as under:

The appellant was appointed as a Clerk by order dated 13th October, 1993, wherein it has been clearly indicated that his appointment was made on probation for a period of two years against a clear permanent vacancy. The appellant satisfactorily completed the probation period and was confirmed in that post.

The appellant's services were terminated by order dated 6th November, 1995. The appellant challenged the order of termination before the School Tribunal, Kolhapur. The Tribunal, by its order dated 26th June, 1997, held the order of termination as illegal, ineffective and *ab initio void* and quashed the same. The respondents herein, aggrieved by the said judgment of the Tribunal, filed a writ petition before the learned Single Judge of the High Court. The learned Single Judge examined the matter in detail and dismissed the writ petition upholding the judgement of the Tribunal. The respondents, aggrieved by the said judgment of the learned Single Judge preferred a Letters Patent Appeal before the

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High Court. The Division Bench, without analyzing the findings of the Tribunal, which were upheld by the learned Single Judge, set aside the order of the learned Single Judge and remanded the case to the learned Single Judge. The appellant, aggrieved by the judgment of the Division Bench, has approached this Court by way of this appeal.

This Court issued notice on 14th November, 2008, and stayed the operation of the impugned judgment of the Division Bench of the High Court.

Despite opportunity, no counter affidavit has been filed by the respondents.

We have heard learned counsel for the parties at length and perused the judgments of the Tribunal, learned Single Judge and the Division Bench. In our considered view, the Division Bench was not justified in setting aside the judgement of the learned Single Judge and remitting the matter back to the learned Single Judge. In our view, the learned Single Judge has correctly upheld the judgment of the Tribunal upon examining the matter in detail. In the facts and circumstances of the case, ends of justice would be met if the appellant is reinstated in service forthwith. We order accordingly. He would also be entitled to back wages calculated at the rate of twenty five per cent, which shall be paid to him within two months from today.

The civil appeal is, accordingly, disposed of.

.....J.
[DALVEER BHANDARI]

.....J.
[DR. MUKUNDAKARM SHARMA]

New Delhi,
November 12, 2009.