

(2007) 01 BOM CK 0100

In the Bombay High Court

Case No : Writ Petition No. 2145 of 2006

Kalpana Deorao Lenze

APPELLANT

Vs

Gurudeo Krushanashram Dharmik Trust

RESPONDENT

Date of Decision : 11-01-2007

Acts Referred:

Citation : (2007) 113 FLR 919

Hon'ble Judges : A.H. Joshi, J

Bench : Single Bench

Advocate : Anand Parchure, for the Appellant; R.L. Khapre, for Respondent No.1 and V.A. Thakre, A.G.P. for Respondent 2 to 4, for the Respondent

Final Decision : Dismissed

Judgement

A.H. Joshi, J.—Rule. Rule is made returnable forthwith and is heard with consent of parties.

The order passed by the School Tribunal (Annexure IX to the petition) dated 6th December, 2005, by which the Tribunal refused to condone the delay, is under challenge in this petition.

2. This Court has heard learned Advocates for the respective parties and perused the order.

3. On perusal of the application for condonation of delay, it is seen that the reasons for delay have been summarized in para 4 which reads as follows :-

4. The appellant after receipt of the decision of Dy. Director of Education, Nagpur had filed review application the review of order dated 28.9.1998 on 11.12.1998. The appellant has also approached to Hon'ble State Minister for Education vide her letter dated 30.12.1998. The Hon'ble State Minister for Education issued directions to Dy. Director of Education to decide, the reinplaint of this appellant. The Deputy Director of Education, Nagpur has not issued any letter or did not give any decision on reviewed application and therefore the appellant has given

reminder on 4.1.2001 [kindly see document No. 15]. The Dy. Director of Education has not yet decide the review application dated 11.12.1998 and he has not complied with the orders of Hon''ble State Minister for Education uptil date. In the meantime this appellant felled down and was suffering from Enteric Fever C. Hepatatis from 20.1.2001 to 30.4.2001 and from 20.6.2001 to 30.9.2001 and hence the appellant could not contact to her Counsel or representative.

4. It was known to the petitioner that the purpose for which she was pursuing before the Deputy Director, and then before this Court and again before the Deputy Director was not for the claim of reinstatement, and was rather against rejection of approval.

5. It was open for her to have simultaneously challenged the termination before the School Tribunal. Petitioner was all throughout under legal advice, and it is not her plea that due to erroneous or wrong legal advice, she did not file an appeal before School Tribunal. Of late and by way of afterthought, she is claiming that she had lost time in pursuing the remedy before Forum which was not competent to decide her claim.

6. Learned Advocate Mr. Parchure placed reliance on judgment of Apex Court in case of N. Balakrishnan Vs. M. Krishnamurthy, .

7. While it is alright that a liberal view can be adopted, and prejudice, if any, caused to the opposite party can be compensated in terms of money, it cannot be lost sight of the fact that present matter arises out of employment in a private school. The limitation prescribed by law for filing an appeal before the School Tribunal is of thirty days. The rationale behind providing a shorter span of limitation is demonstrative of the punctualness required in resorting to a challenge in such matters.

This very aspect of intention behind fixing a shorter duration of limitation ought never be connived at.

8. In the given circumstances, therefore, by no stretch the recourse to representation before Deputy Director could be regarded as recourse to wrong forum at all, particularly when the relief prayed before the said authority was not same or similar to one subject-matter of appeal before School Tribunal.

9. Apart that the Tribunal has given due consideration and assigned detailed reasons, the averments contained in para 4 quoted in para 4 above do not inspire confidence.

10. In the aforesaid background, this Court finds that the order of School Tribunal cannot be indicted, much less held to be erroneous, perverse or wrong on account of failure to consider any material on record.

11. In these premises, this Court finds no reason or justification for interference in the impugned order.

Writ petition, therefore, deserves to be dismissed, and is accordingly dismissed.

Rule is discharged.