
(2023) 09 BOM CK 0041

In the Bombay High Court

Case No : Writ Petition No. 11633 Of 2022, Interim Application No.30364 Of 2022???? ?

Vijaykumar Raosaheb Kulkarni And Others

APPELLANT

Vs

Rasta Peth Education Society

RESPONDENT

Date of Decision : 13-09-2023

Acts Referred:

Maharashtra Employees Of Private Schools (Conditions Of Service) Rules 1981 — Rule 1(g), 6, 6(a), 11(2)(ii), 11(2)(iii), 40
Maharashtra Employees Of Private Schools (Conditions Of Service) Act, 1977 — Section 7

Citation : (2023) 09 BOM CK 0041

Hon'ble Judges : Sandeep V. Marne, J

Bench : Single Bench

Advocate : S. G. Kudle, Suresh Butala, Harshad Sathe, C. D. Mali

Final Decision : Disposed Of

Judgement

Sandeep V. Marne, J

1. Rule. Rule is made returnable forthwith. With the consent of the learned counsels appearing for the parties, petition is taken up for final hearing.

2. By this petition, Petitioner challenges judgment and order dated 20 April 2022 passed by the Presiding Officer, School Tribunal, Pune dismissing Appeal No.29 of 2020. The appeal was filed by Petitioner challenging what he described as 'oral otherwise termination order' dated 02 December 2020. It was Petitioner's grievance before the Tribunal that he had withdrawn the application for 'voluntary retirement', but he was still terminated from service on the basis of decision of the School Management to accept the 'resignation'. Petitioner's application for 'voluntary retirement' is thus treated as 'resignation' and by accepting the same, his services are terminated.

3. Facts of the case are that Petitioner was appointed as Assistant Teacher in

Vidhyarthi Vikas High School, Bopkhel, Pune run and managed by Yogeshwar Education Society, Sangvi on 01 June 1997. The said secondary school was recognized 100% aided school and the Education Officer (Secondary) Zilla Parishad, Pune had granted approval to Petitioner's appointment on 23 November 2004. Due to withdrawal of recognition of the said school, Petitioner was directed to be absorbed by the Order of Education Officer dated 10 July 2013 in Abasaheb Atre Day High School and Junior College run and managed by Rasta Peth Education Society (Respondent No.1). Petitioner accordingly joined Respondent school on 11 July 2013.

4. It is Petitioner's claim that he was harassed by the new management which took over affairs of Respondent School in the year 2019. He therefore opted for voluntary retirement and tendered application dated 31 August 2020 stating that he be voluntarily retired from 01 December 2020 and sought his date of relieving as 30 November 2020. Petitioner also used the word 'resignation' in his letter dated 31 August 2020.

5. It appears that Petitioner's application dated 31 August 2020 was treated as 'resignation' by Respondent Management. By letter dated 9 September 2020, he was called upon to submit details of his health for processing his resignation. Petitioner accordingly submitted medical certificate dated 16 September 2020 vide letter dated 17 September 2020 and requested for early process of his resignation. By its letter dated 21 September 2020, Respondent Management called upon Petitioner to submit medical certificate of Government Hospital, as he was serving as Government Servant in Government approved education institution. Petitioner contested Respondent's claim that he is Government employee and expressed inability to submit medical certificate from Government Hospital by his letter dated 22 September 2020. The Respondent Management however insisted by letter dated 22 September 2020 for production of medical certificate of Government Hospital and also sent reminder letter dated 27 October 2020 to Petitioner.

6. On 25 November 2020, the Respondent management adopted resolution accepting Petitioner's resignation. The decision of the Management was communicated to Petitioner by letter dated 27 November 2020. The receipt of letter was acknowledged by Petitioner on 27 November 2020. However on 28 November 2020, Petitioner withdrew request for voluntary retirement and submitted letter to that effect. Petitioner thereafter went on making representations on 02 December 2020 and 09 December 2020 about withdrawal of his voluntary retirement and requested Respondent school to permit him to sign the muster. Petitioner also approached Education Officer (Secondary), Zilla Parishad, Pune who addressed letter dated 15 December 2020 to the Respondent school to take appropriate action on Petitioner's application for withdrawal of voluntary retirement.

7. Since the Respondent school did not take any decision on Petitioner's application for withdrawal of voluntary retirement, he approached School

Tribunal, Pune by filing appeal No.29 of 2020. By judgment and order dated 20 April 2022, the Tribunal has proceeded to dismiss the appeal. Aggrieved by decision of the School Tribunal, Petitioner has filed the present petition.

8. Mr. Kudle, the learned counsel appearing for Petitioner would contend that Petitioner has right to withdraw the request of voluntary retirement before it could actually come into effect. That by letter dated 31 August 2020, Petitioner had requested for voluntary retirement with effect from 1 December 2020. That Respondent-Management erroneously processed Petitioner's request as if it was a resignation when in fact he intended to opt for voluntary retirement. He would further submit that the Tribunal has erred in holding that the request submitted by Petitioner was for resignation and not for voluntary retirement.

9. Per contra Mr. Butala the learned counsel appearing for Respondent Nos.1 to 4 would oppose the petition and support the order passed by the School Tribunal. He would invite my attention towards entire correspondence on record and would highlight repeated use of the word 'resignation' by Petitioner. He would submit that Petitioner always intended to resign from the service. That the Respondent-Management has accepted Petitioner's resignation and not voluntarily retirement. That Petitioner was communicated the decision of the school management about acceptance of his resignation on 27 November 2020. That upon communication of the decision to petitioner, the resignation came into effect. That therefore it would not be open for Petitioner subsequently withdraw the resignation on 28 November 2020.

10. Mr. Butala would further rely upon provisions of Rule 40 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules 1981, which contemplate resignation on giving 03 months' notice. He would submit that management is entitled to accept resignation before expiry of 03 months' notice under Rule 40. He would draw my attention towards Petitioner's letter dated 22 September 2020 where he has referred to provisions of Section 7 of the Maharashtra Employees of Private Schools (Conditions of Service) Act 1977. That Section 7 deals with resignation by employees.

11. Mr. Butala would further submit that in his appeal, Petitioner erroneously sought relief against termination from service. He did not challenge management's decision dated 25 November 2020 or letter dated 27 November 2020. That despite acceptance of his resignation, he attempted to mislead the Tribunal by branding the cessation of his service as termination. In support of his contentions, Mr. Butala would rely upon judgments in (i) Balaleshwar Shikshan Mandal & another Vs. Jaywant Bhaguji Gadekar & Ors., 2003 SCC OnLine Bom 490, (ii) Utkranti Mandal, Jarud and another Vs. Shriram Manohar Bande and others, 2022(5) Mh.L.J. and (iii) Neminath Jain Bhramhacharya Ashram (Jain Gurukul) and others Vs. Rajendra Sitaram Nikam and others, 2004(3) L.N.N.166.

12. Rival contentions of the parties now fall for my consideration.

13. Two issues that arises for my consideration are (i) whether application dated

31 August 2020 submitted by Petitioner was for 'voluntary retirement' or for 'resignation' and (ii) if it was for voluntary retirement, whether Petitioner had right to withdraw the same.

14. Perusal of the resolution adopted by Respondent School Management of 25 November 2020 would indicate that they treated Petitioner's letter dated 31 August 2020 as resignation and accepted his 'resignation' and not 'voluntarily retirement'. The Tribunal has considered evidence adduced about the nature of letter dated 31 August 2020 in paragraph 13 of its judgment. The Tribunal has arrived at a conclusion that the letter dated 31 August 2020 was for 'resignation' and not for 'voluntary retirement'. The Tribunal has recorded following findings in support of its conclusions:

"13. The appellant has produced documents along with list Exh.4 the letter issued by the appellant dated 31/08/2020 is at Sr.No.6. As per the appellant said letter issued by him for obtaining voluntary retirement. On the other hand, as per the respondents the appellant has resigned from the service. Thus both parties have taken contrary stands in respect of letter dated 31/08/2020 therefore it is necessary to decide the aspect as to whether the said letter is notice of voluntary retirement or it is resignation. On perusal of letter it can be easily gathered that the appellant has intimated respondents that due to illness and due to fracture of left leg it is not possible for him to sit or stand at one place, therefore, he is facing difficulties in discharging his duties, hence he is resigning from the service w.e.f. 01/12/2020. He prays that he may be relieved on 30/11/2020. Thus on perusal of letter it can be gathered that it is duly intimated by appellant to the respondents that his resignation may be accepted after three months, however nowhere it is mentioned in the application that same may be considered as notice of voluntary retirement as contemplated in MCSR Rules. Not only this admittedly the present respondent had after receipt of the letter dated 31/08/2020 informed the appellant to produce the certificate of doctor. On perusal of said letter dated 09/09/2020 it can be gathered that in the said letter the respondents had specifically described letter dated 31/08/2020 as resignation and not as notice of Voluntary retirement. Admittedly the appellant has received the said letter, therefore, he must have got knowledge that the respondents are treating said letter as letter of resignation. In spite of that the appellant has not taken care to inform the respondents that same is notice of voluntary retirement."

15. Since there is dispute about the nature of request made by Petitioner in his application dated 31 August 2020, it would be necessary to reproduce the same. Petitioner's application dated 31 August 2020 thus reads as under-

16. The letter dated 31 August 2020 can be translated as under Shri Vijaykumar Raosaheb Kulkarni

Assistant Teacher

Aabasaheb Atre Din Prashala,

Somwar Peth, Pune-411911

Date – 31/08/2020.

To,

The Secretary

The Rasta Peth Education Society, Somwar Peth,

Pune-411011

Through : Headmistress

Aabasaheb Atre Din Prashala, Somwar Peth,

Pune-411011.

Subject :- Acceptance of my resignation on the post of Assistant Teacher.

Sir/Madam,

With reference to the above subject I humbly request that I am unable to stand at one place for long time nor can sit on chair at one place for long time on account of spinal problems in the back as well as fracture in left leg. I am also suffering extreme physical pain due to advanced age. For these reasons I suffer difficulties while discharging duties as a teacher. Hence, I am opting for voluntary retirement with my own will with effect from 01 December 2020. I am accordingly submitting this letter for acceptance of my resignation on the post of Assistant Teacher. The same be accepted by relieving me on 30 November 2020 and further action be initiated for grant of benefits of retirement."

You have provided an opportunity to function up to the position of Institution Supervisor in your reputed school after I joined as Assistant Teacher in your school after absorption for which I am indebted for my life. Through various activities undertaken by your institution I have aided to my updated teaching knowledge while working as Assistant Teacher in your institute. I tender my apology if I have committed any mistake knowingly or unknowingly while functioning as Assistant Teacher and Institution Supervisor. I may be pardoned for the same. I wish all the prosperity to your Institution.

Yours faithfully

(Vijaykumar Kulkarni)

(emphasis and underlining supplied)

17. Thus, the letter dated 31 August 2020 uses the word 'resignation' at two places. However, the letter specifically states that Petitioner opted for 'voluntary retirement' with effect from 01 December 2020. He has further requested the Respondent School Management to take necessary action for payment of retirement benefits. Use of word 'voluntarily retirement' coupled with request for

payment of pensionary benefit would leave no matter of doubt that Petitioner desired to opt for voluntary retirement and not for resignation. The word 'resignation' appears to have been loosely used in the letter out of confusion. Though Petitioner's letter dated 31 August 2020 was for voluntary retirement, Respondent School Management conveniently treated it as resignation and entered into correspondence with him calling upon him to submit medical certificate for expeditious processing of resignation. Possibly Petitioner did not understand deliberate use of the word 'resignation' by Respondent School Management in various letters and he also continued using the same word in his own letters. Thus, in all correspondence that took place from 09 September 2020 till 27 November 2020 the word 'resignation' came to be repeatedly used by both sides. However, in his withdrawal letter dated 28 November 2020, Petitioner specifically withdrew his voluntary retirement and not resignation. It would be necessary to reproduce Petitioner's letter dated 28 November 2020, the relevant portion of which is translated as under-

"With reference to the above I request that I am withdrawing my resignation tendered through the medium of voluntary retirement on 31 August 2020 for my personal reasons on 28 November 2020. I am therefore requesting to treat my resignation application in connection with voluntary retirement dated 28 November 2020 as cancelled."

18. In his letter dated 28 November 2020, Petitioner states that 'he was withdrawing his resignation tendered through the medium of voluntary retirement'. This would leave no matter of doubt that the word 'resignation' has been used by Petitioner in the context of his voluntary retirement. He has possibly not understood the exact difference between the two concepts and was apparently labouring under a misconception that for opting the voluntary retirement, it is necessary to tender resignation. Therefore, there is no doubt that Petitioner always intended to opt for voluntary retirement.

19. The matter needs to be viewed from another angle also. Petitioner is working as an Assistant Teacher since year 1997 in aided school. His appointment has been approved by the Education Officer (Secondary) Zilla Parishad, Pune. This would mean that Petitioner is entitled to payment of pensionary benefits on his retirement. Petitioner had undoubtedly put in minimum requisite service of 20 years necessary for voluntary retirement. In such circumstances, it is difficult to understand as to why he would give up his retirement benefits by tendering a resignation. Resignation entails forfeiture of past service and a resigned employee does not become eligible for pensionary benefits. On the contrary, employee opting for voluntary retirement is entitled to all pensionary benefits in respect of qualifying service rendered by him. Petitioner expected payment of retirement benefits and requested for early disbursal in his application dated 31 August 2020. This is yet another factor which would lead credence to the fact that Petitioner opted for voluntary retirement and not for resignation. The Apex Court in catena of judgments has treated resignations tendered by employee

who had rendered qualifying service for pension as application for voluntarily retirement. In *Sheelkumar Jain Vs. New India Assurance Company Limited and others*, 2011 (12) SCC 197 the appellant therein had resigned from service due to his ill health, however since he had rendered requisite qualifying service for pension, the Apex Court treated his resignation as application for voluntary retirement and directed the employer to treat him as voluntarily retired. The Apex Court in paragraph 25, 26, 29 to 30 of the judgment observed as under -

"25. Para 22 of the 1995 Pension Scheme states that the resignation of an employee from the service of the corporation or a company shall entail forfeiture of his entire past service and consequently he shall not qualify for pensionary benefits, but does not define the term "resignation". Under sub-para (1) of Para 30 of the 1995 Pension Scheme, an employee, who has completed 20 years of qualifying service, may by giving notice of not less than 90 days in writing to the appointing authority retire from service and under sub-para (2) of Para 30 of the 1995 Pension Scheme, the notice of voluntary retirement shall require acceptance by the appointing authority. Since "voluntary retirement" unlike "resignation" does not entail forfeiture of past services and instead qualifies for pension. an employee to whom Para 30 of the 1995 Pension Scheme applies cannot be said to have "resigned" from service.

26. In the facts of the present case, we find that the appellant had completed 20 years of qualifying service and had given notice of not less than 90 days in writing to the appointing authority of his intention to leave the service and the appointing authority had accepted notice of the appellant and relieved him from service. Hence, Para 30 of the 1995 Pension Scheme applied to the appellant even though in his letter dated 16-9-1991 to the General Manager of Respondent 1 Company he had used the word "resign".

29. These letters were written by the respondent because he realised that he would be deprived of his pension, gratuity, etc. as a consequence of his resignation. These subsequent letters dated 18-8-1984 and 22-8-1984 were not accepted and the respondent was struck off from the rolls of the Army on 24-8-1984. On these facts, the Court held: (P.S. Bhargava case, SCC p. 32. para 19)

"19... Once an officer has to his credit the minimum period of qualifying service, he earns a right to get pension and as the Regulations stand, that right to get pension can be taken away only if an order is passed under Regulation 3 or 16."

30. The aforesaid authorities would show that the court will have to construe the statutory provisions in each case to find out whether the termination of service of an employee was a termination by way of resignation or a termination by way of voluntary retirement and while construing the statutory provisions, the court will have to keep in mind the purposes of the statutory provisions."

20. In *Shashikala Devi v. Central Bank of India*, (2014) 16 SCC 260, the Apex Court has relied upon its past decision in *Sudhir Chandra Sarkar v. Tisco Ltd.*,

(1984) 3 SCC 369 has held as under:

17. When viewed in the backdrop of the above facts, it is difficult to reject the contention urged on behalf of the appellant that what the deceased employee intended to do by his letter dated 8-10-2007 was to seek voluntary retirement and not resignation from his employment. We say so in the light of several attendant circumstances. In the first place, the employee at the time of his writing the letter dated 8-10-2007 was left with just about one-and-a-half years of service. It will be too imprudent for anyone to suggest that a bank employee who has worked with such commitment as earned him the appreciation of the management would have so thoughtlessly given up the retiral benefits in the form of pension, etc. which he had earned on account of his continued dedication to his job. If pension is not a bounty, but a right which the employee acquires on account of long years of sincere and good work done by him, the Court will be slow in presuming that the employee intended to waive or abandon such a valuable right without any cogent reason. At any rate there ought to be some compelling circumstance to suggest that the employee had consciously given up the right and benefit, which he had acquired so assiduously. Far from the material on record suggesting any such conscious surrender, abandonment or waiver of the right to retiral benefit including pension, we find that the material placed on record clearly suggests that the employee had no source of income or sustenance except the benefit that he had earned for long years of service. This is evident from a reading of the letter dated 8-10-2007 in which the employee seeks release of his retiral benefits at the earliest to enable him to undergo medical treatment that he requires. The letter, as seen earlier, lays emphasis on the fact that for his sustenance the employee is dependent entirely on such benefits. It is in that view difficult for us to attribute to the employee the intention to give up what was rightfully his in terms of retiral benefits, when such benefits were the only source not only for his survival but for his medical treatment that he so urgently required. For a waiver of a legally enforceable right earned by an employee, it is necessary that the same is clear and unequivocal, conscious and with full knowledge of the consequences. No such intention can be gathered from the facts and circumstances of the instant case. The employee's subsequent letters and communication which are placed on record cannot be said to be an afterthought. Being proximate in point of time the letter dated 8-10-2007 must be treated to be a part of the subsequent communication making the employee's intentions clear, at least for the purposes of determining the true intention underlying the act of the employee.

18. It is, in our opinion, abundantly clear that the beneficial provisions of a Pension Scheme or Pension Regulations have been interpreted rather liberally so as to promote the object underlying the same rather than denying benefits due to beneficiaries under such provisions. In cases where an employee has the requisite years of qualifying service for grant of pension, and where he could under the service conditions applicable seek voluntary retirement, the benefit of pension has been allowed by treating the purported resignation to be a request

for voluntary retirement. We see no compelling reasons for not doing so even in the present case, which in our opinion is in essence a case of the deceased employee seeking voluntary retirement rather than resigning.

19. We may at this stage refer to a few decisions of this Court in which somewhat similar questions have been examined and answered by this Court. In *Sudhir Chandra Sarkar v. Tisco Ltd* a permanent uncovenanted employee of the Company had served for 29 years whereafter he tendered his resignation which the employer accepted unconditionally. The Company's Retiring Gratuity Rules did not provide for payment of gratuity to employees who re-signed from service. This Court while reversing the view taken by the High Court held that termination of service by resignation was tantamount to re-tirement by resignation entitling the employee to retiral benefits. The following passage is apposite in this regard: (SCC pp. 375-76, para 7)

"7. The contention of the respondent is that the plaintiff did not retire from service but he left the service of the Company by resigning his post. This aspect to some extent agitated the mind of the High Court. It may be dealt with first. It is not only not in dispute, but is in fact conceded that the plaintiff did render continuous service from 31-12-1929 till 31-8-1959. On exact computation, the plaintiff rendered service for 29 years and 8 months. Rule 6(a) which prescribed the eligibility criterion for payment of gratuity provides that every permanent uncovenanted employee of the Company whether paid on monthly, weekly or daily basis will be eligible for retiring gratuity which shall be equal to half a month's salary or wages for every completed year of continuous service subject to a maximum of 20 years' salary or wages in all provided that when an employee dies, retires or is discharged under Rule 11(2)(ii) and (iii) before he has served the Company for a continuous period of 15 years he shall be paid a gratuity at the rate therein mentioned. The expression 'retirement' has been defined in Rule 1(g) to mean 'the termination of service by reason of any cause other than removal by discharge due to misconduct'. It is admitted that the plaintiff was a permanent uncovenanted employee of the Company paid on monthly basis and he rendered service for over 29 years and his service came to an end by reason of his tendering resignation which was unconditionally accepted. It is not suggested that he was removed by discharge due to misconduct. Unquestionably, therefore, the plaintiff retired from service because by the letter Annexure 'B' dated 26-8-1959, the resignation tendered by the plaintiff as per his letter dated 27-7-1959 was accepted and he was released from his service with effect from 1-9-1959. The termination of service was thus on account of resignation of the plaintiff being accepted by the respondent. The plaintiff has, within the meaning of the expression, thus retired from service of the respondent and he is qualified for payment of gratuity in terms of Rule 6."

22. Applying the ratio of the above judgments, even if Petitioner was to submit a plain and simple letter for resignation, the same could yet have been treated as application for voluntary retirement since the Petitioner had undoubtedly

rendered requisite pensionable service necessary for voluntary retirement.

23. I have therefore no hesitation in holding that Petitioner tendered request for voluntary retirement and not for resignation. The findings recorded by the Tribunal treating Petitioner's application dated

31 August 2020 as resignation are perverse and unsustainable.

24. Having arrived at a conclusion that Petitioner's application dated 31 August 2020 was for voluntary retirement, next issue for determination is whether he had right to withdraw the same.

25. Petitioner opted for voluntary retirement with effect from 1 December 2020 and submitted date of relieving as 30 November 2020. Petitioner's request was replied by Respondent School Management by adopting resolution dated 25 November 2020. Petitioner was given intimation about the Management's decision vide letter dated 27 November 2020. The letter further states that Petitioner would be relieved after submission of all requisite documents such as no dues certificate / no objection certificate from all departments. Thus, the letter dated 27 November 2020 did not relieve Petitioner and he continued to be in employment of Respondent School Management. Even otherwise, the resolution adopted by the Respondent Management does not indicate the resignation / voluntary retirement was accepted from a particular date. This would mean that Petitioner's voluntary retirement was to come into effect from 1 December 2020 as requested by him. However, before the same could come into effect he withdrew his voluntary retirement on 28 November 2020. The issue that therefore arises is whether Petitioner had right to withdraw the voluntary retirement after its acceptance but before it came into effect. Law in this regard is settled by the Judgment of the Apex Court in J. N. Srivastava Vs. Union of India 1998 (9) SCC 559. The Apex Court held in paragraph No.3 as under-

3. The short question is whether the appellant was entitled to withdraw his voluntary retirement notice of three months submitted by him on 3-10-1989 which was to come into effect from 31-1-1990. It is true that this pro-proposal was accepted by the authorities on 2-11-1989. But thereafter before 31-1-1990 was reached, the appellant wrote a letter to withdraw his voluntary retirement proposal. This letter is dated 11-12-1989. The said request permitting him to withdraw the voluntary retirement proposal was not accepted by the respondents by communication dated 26-12-1989. The appellant, therefore, went to the Tribunal but the Tribunal gave him no relief and took the view that the voluntary retirement had come into force on 31-1-1990 and the appellant had given up the charge of the post as per his memo relinquishing the charge and consequently, he was estopped from withdrawing his voluntary retirement notice. In our view the said reasoning of the Tribunal cannot be sustained on the facts of the case. It is now well settled that even if the voluntary retirement notice is moved by an employee and gets accepted by the authority within the time fixed, before the date of retirement is reached, the employee has locus poenitentiae to withdraw

the proposal for voluntary re- tirement. The said view has been taken by a Bench of this Court in the case of Balram Gupta v. Union of India [1987 Supp SCC 228 : 1988 SCC (L&S) 126 : (1987) 5 ATC 246] . In view of the aforesaid decision of this Court it cannot be said that the appellant had no locus standi to withdraw his proposal for voluntary retirement before 31-1-1990.

26. Thus it is a settled law that an employee is entitled to withdraw voluntary retirement before it actually comes into effect even after its acceptance. Therefore, on account of withdrawal of voluntary retirement by Petitioner on 28 November 2020, his retirement did not come into effect.

27. Mr. Butala has relied on judgments quoted above in support of his contention that resignation once submitted and accepted, cannot be subsequently withdrawn. However, I have already recorded a finding that what is submitted by Petitioner on 31 August 2020 is request for 'voluntary retirement' and not for 'resignation'. Therefore reliance of Mr. Butala on various judgments quoted above as well as on Section 7 of the Act of 1977 and Rule 40 of Rules of 1981 is misplaced.

28. The Respondent School Management thus erroneously prevented Petitioner from performing his duties after 28 November 2020. Petitioner is required to be treated in service w.e.f. 25 November 2020. In the peculiar facts and circumstances of the case, where Petitioner did make the School Management believe that he was resigning from service, I am not inclined to grant the benefit of backwages to him on the principle of 'no work no pay'. The intervening period will have to be however treated as duty for all other purposes such as pay fixation, continuity of service, qualifying service for pension, etc.

29. Resultantly, the petition succeeds. Judgment and order dated 20 April 2022 passed by the School Tribunal, Pune in Appeal No.29 of 2020 is set aside. Petitioner shall be reinstated in service with effect from 25 November 2020 with all consequential benefits, except backwages. The intervening period shall be treated as duty for all other purposes such as pay fixation, continuity of service, qualifying service for pension, etc. Writ Petition is accordingly allowed. Rule is made absolute.

30. Interim Application No.30364 of 2022 is filed by an intervener seeking to raise certain disputes about the managing committee of Respondent No.1 institution. Since the said issue is not germane to the petition, interim application is disposed of.