

**Shri. K. B. Parab,**  
**V/s.**  
**Karachi Maharashtra S.P.M. and others.**

**Order below Exh. 10**  
**(Date - 23.01.2025)**

Present application is preferred by the appellant for ad-interim relief of not filling permanent post of Assistant head master and Head master in respondent no. 3 school.

2. According to the appellant, the appellant is the senior most and eligible candidate for the post of Assistant head master, despite that, the respondent management by order dated 01.06.2023 promoted respondent no. 4 as Assistant head master. It is come into knowledge of the appellant that, respondent no. 4 got promoted as Head master on 01.12.2024 and one Mr. Vipin Varade promoted as Assistant head master. Respondent no. 4 is going to retire on 31.01.2025 after attending the age of superannuation. On that event, if, the management promoted any other person on the post of Head master and Assistant Head master the claim of the appellant would be superseded. Therefore, the appellant has prayed for ad-interim injunction to restrain the respondent management from promoting any employee on post of Head master and Assistant head master permanently till the decision of the appeal.

3. Heard Ld. Counsel Mr. Shedage, he has argued that, the appellant is most senior and not only suitable candidate for the post of Assistant head master but also the post of Head master. He attracted my attention towards the date of appointment of the appellant, respondent no. 4 and Mr. Varade. He has further argued that, in the appeal no. 63/2014 Premanath Prabhuwalawalkar Vs. President Karachi Maharashtra Shikshan Prasarak Mandal and others, this Tribunal has given directions to respondent management to prepare proper seniority list within a period of 40 days. Aggrieved by the said order the management has preferred a writ petition no. 2305/2018 before Hon'ble Bombay High Court, in which Hon'ble High Court has also directed the respondent management to rectify the seniority list. Despite that, the respondent management had not rectify the seniority list and disobeyed the order of Hon'ble Bombay High Court and this Tribunal. In such scenario and considering the date of appointment, entry in category 'C' of schedule 'F' of M.E.P.S. Rule the appellant is the most suitable candidate for the alleged post and his seniority is superseded twice by the management. Hence, the appellant has have prima facie case.

4. I reviewed the record and proceeding. It is prima facie transpired from the record that, this Tribunal has given directions to the present respondent management in appeal no. 63/2014 to rectify their seniority list. Arising out of said Judgment writ petition preferred got dismissed and the directions given by this Tribunal were upheld. There

is no whisper on record to show that, the management had rectified the seniority list.

5. The documents produced on record prima facie reveals that, date of appointment of the appellant is 14.11.1990 which was temporary in nature and later on he was continued in service. The seniority list dated 01.01.2010 reveals first date of appointment of the appellant is 14.11.1990 and he qualifies B.P.Ed. in 1991. However, respondent no. 4 and Mr. Varade who were joined service respectively on 07.07.1992 and 09.08.1994 had entered in category 'C' of schedule 'F' on day of their entry in service. The date mentioned against the name of the appellant, respondent no. 4 and Mr. Varade prima facie shows that, the appellant is the senior most candidate amongst them. In such situation, prima facie case is lies in the favour of the appellant.

6. Furthermore, the pleadings in the present application also demonstrate that, during pendency of delay application against the order dated 01.06.2023 issued by the management, on 01.12.2024 the respondent management had given promotion to respondent no. 4 from the post of assistant Head master to the post of Head master and also promoted Mr. Varade as assistant Head master in respondent school. As a matter of fact, present appellant filed other two appeals before this Tribunal challenging the said orders in appeal which were under office objection. Therefore, the pleadings of the appellant as regards to the promotion of respondent no. 4 as Head

master and Mr. Varade as assistant Head master inspires reliance. Thus, it can be prima facie concluded that, without rectifying the seniority list the respondent management has promoted respondent no. 4 and Mr. Varade.

7. As mentioned above, the prima facie case in lies in favour of the appellant, if ad-interim relief is not granted multiplicity of proceeding would be arise. But, it would not be just and proper to grant ad-interim relief till the decision of the appeal. Therefore, though the appellant deserves ad interim relief as prayed would not be entitled to get the relief perpetually. Hence, I pass following order.

### **ORDER**

1. Application is partly allowed.
2. The respondent management and respondent school are hereby restrained by order of ad-interim injunction till their appearance form making any order of permanent promotion on the post of Head master and Assistant head master w.e.f. 01.02.2025.Returnable on 05.02.2025.
3. The appellant to comply with the provisions of Order 39 Rule 3 of Code of Civil Procedure.

*(Order dictated and pronounced in the open Court)*

Date :- 23.01.2025  
Place:- Kolhapur.

(V.N.Dhavle)  
Presiding Officer,  
School Tribunal, Kolhapur.