

Shri. K. B. Parab,

V/s.

Karachi Maharashtra S.P.M. and others.

Order below Exh. 05
(Date - 12.02.2025)

Present application is preferred by the appellant for ad-interim injunction against respondent no. 5 of not to grant approval to the promotion of respondents no. 4 as Head master in respondent no. 3 school and also prayed to stay execution, operation and implementation to the order of promotion of respondent no.4 as a Head master.

2. According to the appellant, the appellant is the senior most and eligible candidate for the post of Head master, despite that, the respondent management by their order promoted respondent no. 4 as Head master w.e.f. 01.02.2025. The order of promotion of respondent no. 4 is supersession of the appellant. Despite of this Tribunal's Judgment in the appeal no. 63/2014 Premanath Prabhuwalawalakar Vs. President Karachi Maharashtra Shikshan Prasarak Mandal and others, respondent management has not prepared proper seniority list. Till today the appellant has filed in all 5 appeals against the orders of supersession of the appellant by the management. If the respondent get succeeded to get approved promotion of respondent no. 4 from the office of respondent no. 5, the respondent management will succeeded to keep the appellant away from the post of Head master. Therefore,

the appellant has prayed for ad-interim mandatory injunction to direct the respondent no. 5 to not to grant approval to the promotion of respondent no. 4 as Head master.

3. Heard Ld. Counsel Mr. Sagar Mane. he has argued that, the appellant is most senior and suitable candidate for the post of Head master. He attracted my attention towards the date of appointment of the appellant, respondent no. 4. 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. He has further argued that once the approval is granted to the promotion of respondent no. 4 as a Head master, the respondent management will succeeded to prolong the matter and it would be cause irreparable cause to the appellant.

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 and include the instructor in the list of assistant teacher. 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 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 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. Ld. Counsel has argued that, till today no order of approval is issued by Education Officer. He has also argued that, the Education Officer has a authority to appoint in charge Head master to discharge the administrative duty.

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. Thus, it would be

just and proper direct the respondent no. 5 to maintain status-quo. Hence, I pass following order.

ORDER

1. Application is partly allowed.
2. The Education Officer is hereby directed to maintain status-quo and not to issue/grant approval to the promotion of respondent no. 4 as Head master, till next date. Returnable on 05.03.2025.
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 :- 12.02.2025
Place:- Kolhapur.

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