

ORDER BELOW EXH.19 IN APPEAL NO. 27/2022 DT. 28/09/2022

1. This application is filed by the appellant for amendment of pleadings and addition of party respondent No.4 to Mr. Ajit Shankar Ghongade.

2. The respondents have filed their reply thereon and resisted application. The proposed respondent failed to appear despite of service and therefore application was proceeded ex parte against him.

3. I have heard learned advocate for the appellant and respondent.

4. I have gone through the pleadings of the appeal and the contentions of respondents in the lights of reliefs claimed by the appellant.

5. On the basis of contentions of rival parties following points arises for determination of application and I have recorded my findings thereon with reasons as follows

Sr. No.	Points	Findings
1.	Whether the appellant has made out ground for seeking amendment in appeal and addition of part to the respondent as prayed?	In the affirmative
2.	Whether the amendment would change the nature of appeal?	In the negative
3.	Whether the amendment would cause prejudice to the right of respondents?	In the negative
4.	What order?	As per final order

AS TO POINTS NO. 1 TO 4:

6. The appellant has claimed to amend pleading by introduction of pleadings more particularly stated in Para No. 5 in respect of appointment of respondent No.4 as head master and approval to the post of Head master specified in para No. 4 and 5 of the application. The appellant has claimed that he has filed appeal against the illegal promotion of respondent No.2 as head master on who is junior to the appellant, however from dt. 01/06/2022 the proposed respondent No.4 is appointed as head master illegally who is junior to the appellant.

7. The respondents have contended that appellant was having knowledge of appointment of Shri. Ghongde Ajit and therefore amendment would change the nature of appeal and cause of action, hence, application be rejected with cost of Rs. 10,000/-is not is trying to amendment in the appeal which will change the nature of appeal.

8. Having regards to the case of appellant and respondents and considering the issue of supersession/ promotion involved in the appeal on the basis of contentions of the appellant, I am of the view that amendment to the extent of appointment on the post of Head Master is consistent with case of promotion and requires to be brought on record for determination of disputed facts involved in the appeal. The respondent No.4 has been appointed as head master and it the case of the appellant that the promotion of respondent No.4 is illegal and he is junior to the appellant.

9. It appears that appellant is claiming relief of promotion and challenging the aspect of promotion of the respondents No.2 and again claimed the addition of respondent No.4 as party. The proposed respondent

has been appointed as head master and therefore amendment is sought by the appellant which is relation to the service and promotion of the appellant and hence the amendment is required to be brought on record for just decision of appeal on its merit and faith is matter of consideration at the time of final argument.

10. This amendment as regards appointment of proposed respondent No.4 is ensuing due to the appointment on the post of head master and therefore required to be brought on record. The amendment is consistent with the claim of appellant and required to be brought on record. If amendment is brought on record then, the respondent would get opportunity to deal with contentions of the appellant once for all. The objection of respondents as regards amendment and its faith has to be kept open for consideration as per law and it will not dis entitle appellant to claim amendment. hence, the amendment is required to brought on record for effective adjudication of appeal and relief sought against respondent.

11. The amendment does not change the nature of appeal as it relates to appointment, service and right alleged to be occurred. The amendment is necessary for adjudication of allegations made against respondents and no prejudice would be caused to them if the amendment is brought on record for adjudication of their right. For the aforesaid reasons, I hold that the appellant has made out the case/ground for seeking amendment and addition of proposed respondents No.4 as party. hence, I answer point Nos. 1 affirmatively and point Nos. 2 and 3 negatively. In the result, I proceed to pass following order.

ORDER

1. The application is allowed.

2. The appellant shall carry out amendment and tender copy of amended appeal on record.
3. Issue notice to the respondent No.4 as per rule returnable on dt. 07/10/2022.
4. The appellant shall serve copy of appeal memo and all the documents to the respondent No.4 as per law.

(Dictated and pronounced in open court)

Date: 28/09/2022

Place: Solapur

Sd/-
(D.S. Khedekar)
Presiding Officer
School Tribunal,
Solapur