

MHSS270000032025	Presented on :27.01.2025
	Registered on :27.01.2025
	Decided on :06.04.2026
	Duration : 01Years 02Months 10 days

BEFORE THE SCHOOL TRIBUNAL,
AMRAVATI DIVISION, AMRAVATI.
(Presiding Officer - Anand Y. Borkar)

Appeal No. 02/2025

Exh.16

Nujhat Farhin Shaikh Kayyum

Age about-40 Years, Occ- Assist Teacher

C/o R/o Syd. Imran Mannan,

Near Shahababu Dargah, Mujawarpura,

Patur, Taluka- Patur, District- Akola **Appellant.**

--- V/s ---

1. Mahatma Gandhi Education Society,

Sofi Chowk, Wadegaon,

Taluka- Balapur, District – Akola

Through its Secretary-

C/o Syd. Qumroddin Syd. Ismail,

Marhba Colony, Patur,

Taluka-Patur, District – Akola

2. Khwaja Garib Navaz Urdu High School

Patur, Taluka-Patur, District-Akola

Through its Head Master

3. Education Officer (Secondary)

Zilla Parishad, Akola

Near Santoshi Mata Mandir.

Hanuman Basti,

Taluka and District Akola **Respondents.**

For the appellant	– Ld. Adv. U.B. Rajput
For the respondent No.1 & 2	– Ld. Adv. Smt. Priya Rele
The respondent No.3	– Ex-parte

(Delivered on 06.04.2026)

1] The present appeal is filed under Section 9(1)(a) of the Maharashtra Employees of Private Schools (Conditions of Services) Regulation Act, 1977 (*hereinafter be referred to as the MEPS Act and Rules made thereunder be referred as the MEPS Rules*) challenging the termination order dated 02.01.2025 (w.e.f. 01.01.2025) issued by the respondent No. 1 Management.

2] It is the case of the appellant that she was appointed as a trained graduate teacher since 02.08.2009. Her appointment was approved by the respondent No. 3 Education Officer on 31.03.2011 and she attained permanent status on 02.08.2011. The appellant alleges that disciplinary proceedings were initiated against her culminating in a termination order dated 02.01.2025. The appellant challenged the same before this Tribunal primarily on the ground that the inquiry was conducted in gross violation of Rule 36 and 37 of the MEPS Act and in violation of principles of natural justice.

3] During the pendency of the appeal the respondent

No. 1 and 2 did not file a formal written statement. However, they filed a pursis (Exh. 8) on 21.08.2025, stating that the Management had passed a resolution on 18.08.2025 withdrawing the termination order. On 01.10.2025 the appellant filed pursis (Exh. 12) confirming the withdrawal of termination order by the Management, that she had submitted her joining report on 19.09.2025 and that she had been allowed join duty as an Assistant Teacher. However, she has pressed her claim for full backwages for the period from the date of termination (01.01.2025) till her reinstatement (19.09.2025), along with continuity of service.

4] This matter is proceeded *ex-parte* against the respondent No. 3 Education Officer.

5] Heard learned counsel Shri U. B. Rajput for the appellant and learned counsel Smt. Priya Rele for the respondent No. 1 and 2.

6] Based on the facts and circumstances of this case and argument, the following issues arise for my determination and I have given my findings with reasons as under :

Sr. No.	<u>Issues for consideration</u>	<u>Findings</u>
01)	Whether appeal is maintainable, given that the impugned termination has been withdrawn and the appellant is reinstated ?	 In the affirmative.

02)	Whether the appellant is entitled for the relief of backwages and continuity of service?	 In the affirmative.
03)	What order ?	 As per final order.

: REASONS :

As to issue No.1 :-

7] Learned counsel Shri U.B. Rajput for the appellant argued that the appeal was rightly filed against illegal termination. The subsequent withdrawal of the termination order by the Management, after the appeal was filed, is an admission of an illegality of their own action. It is an attempt to remedy a wrong and defeat the claim for consequential benefit. Learned counsel Shri U.B. Rajput argued that the cause of action for appeal arose on 02.01.2025 when the respondent No.1 Management issued termination order and subsequent reinstatement does not erase the period of wrongful termination or the appellant's right to seek redressal for that period.

8] *Per contra*, the learned counsel Smt. Priya Rele vehemently argued that as the Management has withdrawn the termination, the present appeal become infructuous. Learned counsel Smt. Priya Rele has heavily placed reliance

on the judgment of Osmanabad District Swatantray Sainik Samiti and another -vs – Jagannath Pandurang Kshirsagar, reported in 2016 (3) Mh.L.J. 181. In the said case School Tribunal granted reinstatement in service with backwages to the respondent school teacher. The petitioner Management of the school denied termination of the school teacher. The petitioner Management alleged that the respondent teacher remained absent from duties. Record of other school showed that the respondent teacher had joined in other school. In the background of such fact the Hon'ble Bombay High Court, Aurangabad Bench observed at para 11 as under :-

11. When the purported cause of action of oral termination was refuted by the management and when it was contended that the appellant has not been terminated and he could very well continue in service, I am of the view that the School Tribunal had no cause of action before it and the appeal should have been disposed of on the statement of the petitioner as per out in their written statement. For this reason alone the impugned judgment is rendered unsustainable.

9] The factual matrix of the present case is entirely different from the facts of Osmanabad case (cited supra). In the present case written termination order was issued by the respondent No.1 Management and it is an admitted fact. However, in Osmanabad case alleged oral termination was disputed by the management. In the present case the respondent No.1 Management issued written termination

order and then withdrew it. However, in Osmanabad case the management denied any termination. In the present case termination was withdrawn during the pendency of the appeal. However in the Osmanabad case the termination of the employee was disputed by the management and not withdrawn. Therefore, I am of humble opinion that the principle laid down in Osmanabad case does not apply to the facts of the present case.

10] In the present case, the appellant had suffered the consequences of the termination order. She was forced to approach this Tribunal for relief. The MEPS Act is a benevolent legislation intended to protect private school employees from arbitrary action. If the Management could avoid adjudication on the legality of their actions simply by withdrawing the order mid-way, it would set a dangerous precedent.

11] The pursis dated 21.08.2025 (Exh.8) only state that the respondent No. 1 and 2 have withdrawn the termination order of the appellant vide resolution dated 18.08.2025 passed by the respondent No. 1 Management. In that pursis there is no any reference of grant of continuity of service and backwages. Today, learned counsel Smt. Priya Rele for the respondent No. 1 and 2 filed pursis at Exh. 25 wherein it is stated the appellant is already reinstated and continuity of service is granted to her. However, on going through the copy of resolution dated 18.08.2025 passed by the respondent

No. 1 Management, it is transpired that the Management has just withdrawn the termination of the appellant. There is no any reference granting continuity of service to the appellant in the said resolution. Therefore, it is clear that after withdrawing the termination order the respondent No. 1 Management did not grant consequential relief continuity of service and backwages. The primary grievance regarding the termination has been resolved, but the ancillary and significant grievance regarding continuity of service and loss of salary for the period of forced unemployment survives. The object of the MEPS Act is to provide security of service to employees in private schools. To allow the Management to illegally terminate an employee, force him/her to litigate and then unilaterally reinstate him/her without any liability for the period of unemployment would be to permit them to benefit from their own wrong and would defeat the very purpose of the MEPS Act. This Tribunal, in the interest of justice, is empowered to grant all consequential benefits flowing from quashing of illegal termination order. Since the termination itself has been effectively set aside by the respondent No. 1 Management, this Tribunal has every power to grant consequential and ancillary relief. Hence, the mere withdrawal of termination order during the pendency of the appeal does not render the appeal infructuous. Accordingly, I hold that the appeal is maintainable for the limited purpose of determining the consequential relief of backwages and continuity of service. Hence, the answer of the issue No. 1 is given in affirmative.

As to issue No. 2 and 3 :-

12] As the appellant has been reinstated and termination order has been withdrawn without any condition, there is no impediment in granting continuity of service to the appellant. The period from 01.01.2025 to 18.09.2025 shall be counted as continuous service for all purposes including pensionary benefits (if any), salary increments and leave calculations.

13] The claim for full backwages requires more careful consideration. The settled legal position under the MEPS Act is that while reinstatement follows automatically when termination is set aside, backwages are not automatic. The employee must either plead and prove that he /she was not gainful employed during the intervening period. The appellant in her appeal memo at para No. 20 specifically pleaded that due to termination order the appellant is out of service and she is not a gainful employee. This statement has not been rebutted by the Management with any evidence that the appellant was employed elsewhere. The burden to disprove the appellant's assertion lay on the Management which they failed to discharge. Therefore, the appellant is entitled for backwages from the dated of termination (01.01.2025) until the day (18.09.2025) just before the date of her reinstatement. The Management is liable to pay this

backwages.

14] For all above reasons, I have answered the issue No. 2 in the affirmative and in answer to issue 3, I proceed to pass the following order :-

: ORDER :

- 1] The appeal is hereby partly allowed.
- 2] Since the respondent Management has already withdrawn the termination order dated 01.01.2025 and reinstated the appellant on 19.09.2025, the prayer for quashing the termination order and for reinstatement is already satisfied and is accordingly disposed of.
- 3] The respondent No.1 Management is directed to pay the appellant full backwages for the period from the date of her illegal termination i.e., 01.01.2025 up to the date preceding his reinstatement i.e., 18.09.2025 within the period of two months from the date of this judgment. The period shall also be counted as continuous service for all consequential benefits.
- 4] No order as to costs.
- 5] Copy of this order be sent to the respondent No. 3 for information and necessary action.
- 6] Pronounced in open Tribunal.

Date:06.04.2026

(Anand Y. Borkar)
Presiding Officer
School Tribunal, Amravati