

2024 LiveLaw (SC) 329

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

PAMIDIGHANTAM SRI NARASIMHA; J., ARAVIND KUMAR; J.

April 25, 2024

CIVIL APPEAL NO. _____ OF 2024 (@ SPECIAL LEAVE PETITION (C) No. 21401 of 2022)

SHRIRAM MANOHAR BANDE versus UKTRANTI MANDAL & ORS.

Maharashtra Employees of Private Schools (Condition of Service) Act, 1977; Section 7 and Maharashtra Employees of Private Schools (Condition of Service) Rules, 1981; Rule 40 – Termination of service challenged – On grounds of non-compliance of MEPS Act and Rules while accepting the resignation – Section 7 of the MEPS Act and Rule 40 of the Rules does not impose any guidelines for acceptance of the resignation upon the management. Held, mere non communication of acceptance of resignation to the employee would not render the termination invalid. (Para 18 & 23)

Maharashtra Employees of Private Schools (Condition of Service) Act, 1977; Section 7 and Maharashtra Employees of Private Schools (Condition of Service) Rules, 1981; Rule 40 – Termination of service challenged – On grounds of non-compliance of MEPS Act and Rules while accepting the resignation – Power of school committee to accept resignation – Held, the appellant himself had addressed his resignation letter to the school committee, which placed it before the management, upon which the management committee passed a resolution accepting the resignation. Further held, the School Committee consists of four representatives of the management, making it evident that management was involved in the process of considering and accepting the resignation letter. Hence, the appellant failed to prove any error in the findings of the High Court that the acceptance of resignation was in compliance with the requirements of MEPS Act and Rules. (Para 15)

(Arising out of impugned final judgment and order dated 02-05-2022 in WP No. 1976/2019 passed by the High Court of Judicature At Bombay At Nagpur)

For Petitioner(s) Ms. Sweta Rani, AOR

For Respondent(s) Mr. Satyajit A Desai, Adv. Mr. Siddharth Gautam, Adv. Mr. Abhinav K. Mutyalwar, Adv. Mr. Gajanan N Tirthkar, Adv. Mr. Vijay Raj Singh Chouhan, Adv. Mr. Ananya Thapliyal, Adv. Mr. Sachin Singh, Adv. Ms. Anagha S. Desai, AOR Mrs. Yugandhara Pawar Jha, Adv. Mr. Siddharth Dharmadhikari, Adv. Mr. Aaditya Aniruddha Pande, AOR Mr. Bharat Bagla, Adv. Mr. Sourav Singh, Adv. Mr. Aditya Krishna, Adv. Ms. Preet S. Phanse, Adv. Mr. Adarsh Dubey, Adv.

J U D G M E N T

Aravind Kumar, J.

1. Heard.
2. Leave granted.
3. The appellant being aggrieved by the judgment dated 02.05.2022 passed in Writ Petition No.1976 of 2019, whereby the writ petition filed by the respondent Nos.1 and 2 challenging the Order dated 25.01.2019 passed by the Ld. School Tribunal (hereinafter referred to as 'Tribunal'), Amravati whereunder termination of respondent No.1 (appellant herein) had been set aside and directed the reinstatement with 50% back wages and other consequential benefits came to be set aside has challenged the same. Parties are referred to as per their rank/status in writ court.

Facts in Brief:

4. Respondent No.1 is an educational society that runs Respondent No.2 i.e., Vasantrao Naik High School which runs on a grant-in-aid basis. The appellant came to be appointed as an Assistant Teacher and was discharging his duties accordingly. The appellant tendered his resignation from the said post on 10.10.2017. However, vide letter dated 25.10.2017, he withdrew his resignation by posting said letter on 03.11.2017. The appellant claimed that on 23.11.2017, he went to the school to resume his service, which is when he was denied signing on the muster roll by the Headmaster of Respondent No.2 and on 27.11.2017, the appellant received a letter stating that he was relieved from his service.

5. Against his termination, the appellant approached the Tribunal constituted under Section 8 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977, and Rules framed thereunder (hereinafter referred to as MEPS Act and Rules) by filing an appeal under Section 9 of the MEPS Act contending *inter alia* that the communication issued by the respondents relieving him from service was illegal and all connected documents therewith were fabricated and merely an afterthought. It was also contended that he had withdrawn his resignation, and as such respondents could not have prevented him from joining to his duties. Appellant also contended that he had not received any formal communication from respondents of the acceptance of his resignation. Hence, he prayed for the order of termination of service to be set aside.

6. Respondents in their written statement contended that the School Committee had received the resignation letter of the appellant and pursuant to the same Respondent No.1 – management had passed a resolution of accepting the resignation. It was the case of the respondents that acceptance of the resignation was communicated to the appellant. On the contrary, appellant contended that the resolutions passed by the School Committee were back-dated and it was fabricated only to show compliance with due process.

7. The Tribunal upon perusal of the pleadings and documents on record concluded that the appellant had indeed withdrawn his resignation lawfully and the respondents with a *mala fide* intent had fabricated the documents i.e., the resolutions of the Committee wherein the resignation was accepted. Accordingly, the Tribunal vide judgment and order dated 25th January 2019, set aside the termination of the appellant, declaring it to be unlawfully done.

8. Being aggrieved by said judgment and order of the Tribunal dated 25th January 2019, the Respondents approached the Nagpur Bench of the High Court of Bombay in Writ Petition No.1976 of 2019 contending that Tribunal had erroneously discarded the resolution dated 13.10.2017 passed by the School Management. They further contended that Tribunal had committed an error by holding that resolution was an afterthought of the management; it was also contended that Tribunal discarded the vital document filed on record, leading to a mistake that needs to be corrected in the extraordinary writ jurisdiction. The Respondents also contended that appellant was granted 50% back wages by the Tribunal without pleading or proof of his employment during the period he was out of service. Lastly, it was contended that Tribunal had not given a single reason for its assessment of back wages without any pleading or proof.

9. The High Court concluded that there was material on record to show that the resignation tendered by the appellant was indeed accepted as per the resolution passed by Respondent No.2 and there was statutory compliance with the requirements under the MEPS Act and Rules. The plea of the appellant that acceptance of his resignation was

never communicated to him and thereby termination was illegal, was not accepted by the High Court by observing that non-communication would not make the resolution inoperative. The High Court observed that the MEPS Act and Rules do not stipulate the resignation would come into effect only after its acceptance is communicated to an employee. The High Court also ruled that conclusion arrived at by the Tribunal regarding the documents being fabricated had no basis and was without any evidence to that effect and resultantly, High Court set aside the findings of the Tribunal and found the judgment of the Tribunal to be unsustainable and as such allowed the writ petition as prayed for. Being aggrieved by the Order of the High Court, appellant is before us.

Contentions of the parties:

10. We have heard Ms. Sweta Rani, learned counsel appearing for the appellant, and Mr. Sunil Murarka, learned counsel appearing for the respondents.

10.1 It is the contention of Ms. Sweta Rani, learned counsel appearing for the appellant that High Court committed an error in setting aside the well-reasoned order of the Tribunal by not appreciating the fact that only the management committee could have taken a decision and the school committee had no power to consider the same under the MEPS Act and Rules made thereunder. She would further contend that High Court erred in not considering the inconsistent plea put forward by the management with reference to the approval of the resignation namely in one breath it was contended that the school committee approved the resignation and, in another breath, it was contended that management committee approved the resignation. It is also contended that High Court erred in not appreciating that the resolution dated 13.10.2017 is a manufactured document as rightly noticed by the Tribunal. She would further elaborate her submissions by contending that the resignation letter dated 10.10.2017 had been undisputedly withdrawn by communication dated 25.10.2017 and non-considering of this vital aspect has resulted in the miscarriage in the administration of justice.

10.2 Per contra, Shri Sunil Murarka, learned counsel appearing for Respondent Nos.1 and 2 by supporting the impugned order and praying for dismissal of the appeal has contended that Tribunal had erred in drawing adverse inferences vis-à-vis with reference to copies of the resolutions of the management and the school committee as not having been filed along with written statement, though those documents were indeed placed before the Tribunal at the stage of recording the evidence and this fact was taken note off by the High Court. He would contend that mandate of Section 7 of the MEPS Act read with Rule 40 of the Rules was fully satisfied and contrary attempt by the employee that resignation letter had been withdrawn would not be immune to his benefit in the backdrop of the said resignation having already been accepted by the management.

10.3 He further contended that written statement filed by the respondent would clearly show that the resignation of the appellant was firstly accepted by the management committee by resolution dated 13.10.2017 and only thereafter by the school committee on 14.10.2017 which was evidenced from records. He emphasized that Paragraph 10 of the written statement makes a mention of the resolution dated 13.10.2017, therefore, it cannot be said that the resolution dated 13.10.2017 is an afterthought merely because it was not annexed along with the written statement and only produced during the course of the evidence. He also contended that resignation was voluntary and the same came to be accepted by the management committee and school committee respectively which was communicated to the appellant on 16.10.2017, and therefore appellant was estopped by his own conduct from claiming that the resignation tendered was withdrawn before its acceptance. Hence, he prayed for dismissal of the appeal.

Discussion and Analysis:

11 Against the backdrop of the aforesaid submissions, and contentions raised by the learned counsel, we now proceed to examine the findings of the courts below in contrast to the relevant provisions of the MEPS Act and Rules. The appellant's case, in brief, is that there was non-compliance with the provisions of the MEPS Act and Rules made thereunder which provides for proper acceptance of a resignation. The appellant has strenuously contended that resolution dated 13.10.2017 passed by the management committee was a manufactured/fabricated document. On the contrary, the respondents submit that there is no strict rule which prescribes that resignation has to be accepted by the management committee only, and the same should not be considered by the school committee. It was also submitted that the MEPS Act and Rules do not lay down any strict rules with regard to the communication of acceptance of resignation.

12 Upon careful consideration of the factual background, the findings of the Tribunal, and the reasoning of the High Court for reversing the findings of the Tribunal, we have identified two questions for consideration before us:

- I. Whether the appellant is justified in claiming that the resolution dated 13.10.2017 is a 'manufactured' document by the respondent?
- II. Whether there is any non-compliance with the provisions under the MEPS Act and Rules in acceptance of the resignation letter of the appellant? **Answer:** Both the questions are in the negative for following reasons:

RE: Issue No.1

13 It would be necessary for us to examine the issue of whether the resolution dated 13.10.2017 is a manufactured/fabricated document as claimed by the appellant, as the Tribunal had set aside the termination order on the basis that resolution dated 13.10.2017 was an afterthought and was created by the respondents only to show compliance with the provisions of MEPS Act and Rules. The Tribunal's conclusion for holding the resolutions to be fabricated document was based on the pleadings of the respondents in the written statement filed before the Tribunal, wherein at Paragraph 6 of the written statement, the respondent had stated that the school committee decided on the resignation which was thereafter approved by the management and it had failed to place on record the resolution along with its written statement. However, it is to be noted that the Tribunal had completely overlooked and ignored the additional information in Paragraph 10 namely in the subsequent part of the written statement, whereunder the detailed steps taken by the respondents after receiving the resignation letter have been enumerated. It would be apposite to reproduce the relevant paragraph of the written statement of the respondents.

“10. Additional information: - The appellant is trying to take undue advantage of communications made by the respondent no.2. It is submitted that as soon as the appellant tendered his resignation before the respondent no.2, it was placed before the executive committee of the society, in turn the society has resolved to accept the resignation and in the same it was decided that the same resolution is to be passed in school committee. Accordingly, the directions of the management were compiled by passing a resolution in the school committee. It is obvious that acceptance of resignation firstly was made by the management and the said decision is accepted by the school committee later on.

Therefore, nothing is wrong in it.”

14 A bare perusal of the pleadings in Paragraph 10 of the written statement would make it abundantly clear that the school committee upon receipt of the resignation letter

had placed it before the executive committee, which in turn had resolved by resolution dated 13.10.2017 to accept the resignation and in the same resolution it was also resolved to be passed by the school committee, and accordingly the school committee had passed the resolution dated 14.10.2017. This plea received in the written statement reflects that respondents had specifically pleaded that the management committee was the first one to accept the resolution and only thereafter the school committee had passed its resolution dated 14.10.2017. Further, it is important to note that the document in question was placed before the Tribunal at the stage of evidence, which is an admitted fact. Hence, it was wholly erroneous for the Tribunal to conclude that merely because the document and records were in possession of the management, they would have prepared or fabricated such record. The circumstances analyzed by the Tribunal for arriving at this finding and the reasons arrived thereunder is in complete ignorance of plea raised in Paragraph 10 of the respondent's written statement and hence it is an apparent error on the face of record. The High Court has thus rightly appreciated the pleadings and documents on record to conclude that Tribunal committed an error by holding that documents were manufactured without any appropriate reasons or sufficient evidence to the said effect, more so when there was an explicit mention of the resolution passed by the management in Paragraph 10 of the written statement. Accordingly, Issue No.1 is decided against the appellant, thereby holding that the resolution dated 13.10.2017 is not a 'manufactured' document and upholding the findings of the High Court on this aspect.

RE: Issue No.2

15 The resolution dated 13.10.2017 having been accepted as a valid document to determine the case at hand, it is now necessary to see whether there has been any non-compliance with the provisions of the MEPS Act and Rules while accepting the resignation of the appellant and thereby terminating his services. One of the main grounds for challenging the impugned judgment by the appellant was that only management could have accepted the resignation and taken a decision on the resignation letter dated 10.10.2017, and the school committee lacked the power to consider the same, and hence it was in violation of the provisions of the MEPS Act and Rules. It would be pertinent to note that High Court has rightly rejected said contention by discussing in detail the functions to be performed by the school committee as laid out under Schedule 'A' to the MEPS Act and Rules. The functions to be performed by the school committee are as prescribed under Clause 3, which include the appointment of employees, other than head of the school. It is worthy to note, that appellant himself had addressed his resignation letter to the school committee, however, the school committee placed it before the management, upon which the management committee passed a resolution dated 13.10.2017, accepting the resignation. It is only after the acceptance of the resignation by the management, the school committee on 14.10.2017 passed the resolution accepting the resignation letter. It is equally important to note that School Committee consists of four representatives of the management, including the President of the Governing Body and one member from amongst permanent teachers, with the head of the school being ex-officio secretary of the committee. Therefore, it is evident that management was indeed involved in the process of considering and accepting the resignation letter. Appellant has failed to convince this Court that there was any error in the findings of the High Court on this ground.

16 It would be apposite for us to look into the provisions under the MEPS Act and Rules which enumerate the procedure for resignation by an employee of a private school. The

relevant provisions i.e., Section 7 of the MEPS Act which is reproduced below for reference:

“7. Procedure for resignation by employees of private schools: If any employee intends to resign from his post in any private school, at any time after the appointed date, he shall draw up a letter of resignation in duplicate and sign both copies of that letter and put the date thereon. He may then forward one copy to the Management by registered post and keep the other copy with him.”

A bare perusal of Section 7 of the MEPS Act, the three-fold requirements while tendering a resignation are stipulated for the employee's advantage. It addresses the prescribed protocol for submitting a letter of resignation. The purpose of this provision is to protect employees from unethical practices, such as management calling them in, pressurising or coercing them, or offering them any form of inducement or incentive to sign blank documents that may be used to draft resignation letters at a later date or to terminate employees through deceptive means. Therefore, it is imperative that an employee strictly adhere to the favour of Section 7 it while submitting their resignation. The employee forfeits the protections stipulated therein if he fails to adhere to the prescribed procedure or acknowledge executing a typewritten or printed letter of resignation and subsequently admits to personally delivering or tendering the resignation to management or doing so through a third party. Section 7 of the MEPS Act is not applicable in such circumstance, and the employee cannot invoke its protection to proclaim an unlawful and involuntary resignation in violation of the provision. In the present case, it is an admitted position that the employee voluntarily tendered his resignation. Hence, we need not delve into this aspect in depth.

17. The relevant Rule 40 of the MEPS Rules, also needs to be considered, and is reproduced below:

RULE 40 OF THE MAHARASHTRA EMPLOYEES OF PRIVATE SCHOOLS (CONDITIONS OF SERVICE) RULES, 1981

40. Resignation.-

(1) A permanent employee may leave service after giving three calendar months' notice and a non-permanent employee may leave service after giving one calendar month's notice. The Management may, however, allow an employee to leave service earlier on payment of pay (excluding allowances) for three months, or as the case may be, one month in lieu of notice by the employee. The amount in lieu of notice shall be restricted to the pay for the period by which the notice period falls short.

(2) If any Management allows an employee to leave service earlier either without due notice or without making payment of pay in lieu of notice as specified in sub-rule (1), a proportionate amount of pay in lieu of notice shall be deducted from the grant due to the school concerned.

(3) An employee entitled to vacation shall not give notice of resignation during the vacation or so as to cover any part of the vacation. The notice of resignation shall not be given within a month after the beginning of the first term of the year.

18. It is important to note that in Section 7 of MEPS Act, the three-fold requirement to be fulfilled while tendering a resignation is to protect the interest of the employee, whereas Rule 40 of the Rules was introduced to safeguard the interests of the Management, i.e., to enable the management to make necessary arrangements to replace the existing employee. The first part of Rule 40 (1) imposes a condition only upon the employee while tendering a resignation, i.e., notice to the Management. A permanent employee is required to give threecalendar months' notice, whereas a non-permanent employee has to give a

month's notice. However, the second part of Rule 40 (1) permits the Management to relieve an employee from his service before the duration of the notice period by paying the employee for the remaining duration of the notice period. On a holistic reading of Rule 40, it can be concluded that Management is given the authority to accept the resignation tendered prior to the completion of the notice period and terminate the services of the employee with payment in lieu of the remaining period. Further, it is observed that Rule 40 has not prescribed any requirement or obligation to be fulfilled by the management relating to communication of acceptance of resignation to the employee, nor the Rule would indicate that acceptance of resignation and consequent termination of services of the employee would be improper if such acceptance of resignation is not communicated to the employee. In light of the intent and interpretation of the relevant Section 7 of MEPS and Rule 40 of the Rules, we conclude that the High Court was right in holding that mere noncommunication of acceptance of resignation to the employee would not render the termination invalid. We answer the Issue in the negative, thereby upholding the findings of the High Court.

19. In fact, there is no ground before us, which was not already dealt with by the High Court in its reasoning and finding, however, we have gone into the facts in detail and reviewed the judgments of the courts below in quite detail only to satisfy our conscience that no injustice has been meted out to appellant. We now proceed to detail out the specific findings of the High Court which dealt with all grounds raised by the appellant, which have been reargued before us.

20. It is to be noted that appellant was undergoing certain marital disputes and has admitted to this effect that owing to his difficulties in performing his duties, he tendered his resignation on 10.10.2017. Before the Tribunal, appellant tried to take a stand that he was pressurized into tendering his resignation, however, the Tribunal specifically observed that the appellant never took this stand in his resignation letter, and this plea was raised for the first time before the Education Officer vide letter dated 13.12.2017. Appellant did not take this plea in any of the earlier communications, and accordingly, Tribunal observed that resignation was voluntary, and the submissions of pressurization were vague. Appellant also stated that he had filed a leave application on 10.10.2017, the same date as his resignation letter, seeking leave from 01.11.2017 to 30.11.2017. However, the Tribunal had brushed aside said contention of the appellant on the ground that he never submitted any proof to show his *bona fides* of having communicated the leave application, and Tribunal held that Appellant had acted upon his resignation till his subsequent communication. These observations of the Tribunal would go to show the conduct of the appellant, and the attempts made by the appellant to undo the voluntary decision to resign only post acceptance of his resignation letter. Appellant himself has admitted that he sought withdrawal of his resignation letter on 03.11.2017 only upon realizing his mistake. Tribunal and the High Court have confirmed the fact that resignation was voluntarily tendered by the appellant. The appellant has also strenuously submitted that the acceptance of the resignation was not communicated to him, and he submitted his letter seeking withdrawal of resignation before the communication of acceptance of the resignation. Hence, he contended that the termination was invalid.

21. At this juncture, it becomes necessary to point out that as per service jurisprudence, the employment is terminated from the date on which the letter of resignation is accepted by the appropriate authority. The appellant, in this case, tendered his resignation letter on 10.10.2017 and this resignation letter came to be accepted on 14.10.2017, hence the date

of termination of the services of the appellant for the purpose of adjudication would be 14.10.2017.

22. This Court in **North Zone Cultural Centre and another vs. Vedpathi Dinesh Kumar** reported in (2003) 5 SCC 455 has held that resignation would be effective on its acceptance, even if the acceptance is not communicated as long as rules or guidelines governing the resignation do not mandate such acceptance of resignation is to be communicated. In the **North Zone (supra)** case, the employee who was a temporary Accountant tendered his resignation from the post held by him on 18.11.1988. With effect from the said date, the resignation was accepted by the Director on the very same day with the endorsement "Accepted, hand over charge". The employee vide Telegram on 21.11.1988 withdrew his resignation stating that the same was obtained by pressure. He was communicated vide letter dated 18.11.1988 regarding acceptance of his resignation. The High Court allowed the writ petition on two grounds; (i) the acceptance of resignation was not communicated till the withdrawal and (ii) the employee was permitted to attend the duty even after acceptance of resignation. Setting aside the judgment of the High Court, this Court held that non-communication of the acceptance does not make the resignation inoperative provided, there is, in fact, an acceptance before the withdrawal. It is also held that it is not open to the public servant to withdraw his resignation after it is accepted by the appropriate authority

23. As noticed by us above, Section 7 of the MEPS Act and Rule 40 of the Rules does not impose any guidelines for acceptance of the resignation upon the management. Hence, the position of law laid down by this Court in **North Zone (supra)** squarely applies to the facts of the present case. Therefore, the contention raised by the appellant about withdrawal of resignation before communication of its acceptance does not hold water.

24. We find no infirmity with the impugned judgment and it does not merit any interference. In light of both the points formulated having been answered in the negative, we affirm the findings of the High Court and consequently dismiss the present appeal with no order as to costs.

© All Rights Reserved @LiveLaw Media Pvt. Ltd.

*Disclaimer: Always check with the original copy of judgment from the Court website. Access it [here](#)