

SUPREME COURT OF INDIA

Upekshit Samaj Kalyan Samiti, Ballarpur

Vs.

Education Officer

C.A.No.4147 of 2009

(Tarun Chatterjee and H.L.Dattu JJ.)

07.07.2009

JUDGMENT

Tarun Chatterjee, J.

1. Leave granted.
2. This appeal is directed against the judgment and final order dated 11th of January, 2008 passed by a Division Bench of the High Court of Judicature at Bombay, Nagpur Bench, Nagpur in LPA NO.11/2007 whereby the Division Bench of the High Court rejected the LPA filed by the appellant upholding the views taken by the learned Single Judge with the directions made by the School Tribunal to reinstate the respondent No.1 with full back wages in respondent No.4 - School run by the appellant - Samiti.
3. Having heard the learned counsel for the parties and after going through the materials on record, we are of the view that in the present case, the question of interference by us under Article 136 of the Constitution is not at all necessary, as in this case we find from the impugned order that the tribunals below concurrently found that the appointment of the respondent No.1 was against a permanent vacancy and on completion of two years probation period in the said permanent post, it must be held that the services are deemed to have been confirmed. Since, we do not find any perversity in the findings of the tribunals below, we are not inclined to interfere with the same. However, on the question of payment of full back wages, we are of the view that since respondent No.1 had not worked he would not be entitled to get full back wages, on the other hand he should be granted 50% of the back wages.
4. Accordingly, this appeal is disposed of with the above modification that the respondent shall be reinstated if not already done and he would be entitled to 50% of back wages from the appellant.
5. Subject to this modification, the appeal stands disposed of. There will be no order as to costs.