

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 1132 OF 2003

Smt. Indumati D/o Rajaram Paulzagade,
Aged 50 years, Occu. : Service,
R/o C/o Choudhari's House,
Ward No. 7, Jintoor,
Dist. Parbhani. .. Petitioner

Versus

1. The State of Maharashtra
2. The Deputy Director of Education,
Aurangabad.
- 2A Maharashtra State Education Research
and Training Council,
Sadashiv Peth, Pune 411 030
3. The Education Officer (Primary),
Zilla Parishad, Parbhani.
4. Dnyandeep Shikshan Prasarak Mandal,
Jintoor (Through Its President)
Jintoor, Dist. Parbhani.
5. The Head Master,
Annabhau Sathe Primary School,
Jintoor, Dist. Parbhani. .. Respondents

Shri U. R. Awate, Advocate h/f Shri S. B. Talekar, Advocate for
the Petitioner.

Smt. Y. M. Kshirsagar, A.G.P. for Respondent Nos. 1, 2 and 2A.

Shri V. R. Sonwalkar, Advocate for the Respondent No. 3 - absent

Shri N. T. Bhagat, Advocate for Respondent Nos. 4 and 5.

**CORAM : S. V. GANGAPURWALA AND
A. I. S. CHEEMA, JJ.
DATE : 23RD APRIL, 2015.**

ORAL JUDGMENT (*Per S. V. Gangapurwala, J.*) :-

. Mr. Awate, the learned counsel for the petitioner submits that, the petitioner was appointed in an aided school in the year 1993 that is with effect from 09.01.1993. The petitioner attained age of superannuation in the year 2008. The proposal was submitted by the management every year seeking approval to the appointment of the petitioner. However, the petitioner is not paid salary since 1993. The petitioner has certificate from Mahilashram Basic Training College Wardha. As per the Government Resolution dated 19th September, 1961, the said certificate is equivalent to the junior teachers certificate of the State of Maharashtra. The learned counsel submits that, the petitioner was seeking pay scale of a trained primary teacher. There was no impediment for considering the proposal for approval of the petitioner and the said pay scale of trained primary teacher be paid to the petitioner.

2. The learned counsel for respondent Nos. 4 and 5 submits that, the petitioner was in service upto the year 2003 and never attended the school after 2003. The learned counsel submits that, upto the year 2003 the petitioner is entitled for the salary.

3. The learned Assistant Government Pleader submits that the qualification for primary teacher is that of a D. Ed. The petitioner does not have D. Ed. qualification, as such the approval to the appointment of the petitioner could not be considered. The learned A. G. P. submits that, the said certificate possessed by the petitioner may be equivalent to teachers certificate, however, the said courses are merged into D. Ed. and until the petitioner has qualification of D. Ed. the petitioner would not be entitled for the salary.

4. The learned counsel for the respondent No. 3 is absent.

5. Mr. Awate, the learned counsel submits that, the certificate has been issued by the Head Master of the respondent No. 4 school stating that the petitioner was in continuous service from 09.01.1993 till the date of her attaining age of superannuation i. e. 01.02.2008.

6. We have considered the submissions canvassed by the learned counsel for respective parties.

7. Whether the petitioner was in service from 2003 upto the year 2008 or not is required to be considered by the Education Officer.

8. The petitioner it is said is possessing the certificate issued by Mahilashram Basic Training College Wardha. As per the Government Resolution dated 19th September 1961, the certificate issued by the said institution is recognized as equivalent as junior teachers certificate issued by the State.

9. As is stated by the learned A. G. P. the qualification which is required is D. Ed. and the petitioner does not possess the said qualification. As such, cannot be considered to be a trained primary teacher.

10. Even if arguments of learned A. G. P. are accepted, there was no impediment for the respondent No. 3 to give pay scale of a untrained primary teacher to the petitioner. Undisputedly, the petitioner has worked since 1993. The dispute is whether the petitioner has worked from 2003 upto the year 2008. The same can be resolved by the Education Officer after considering the contention of the petitioner and management. In the light of the above, in case there is no impediment, the respondent No. 3/Education Officer shall consider the case of the petitioner for approval to the appointment of the petitioner as a untrained primary teacher from the year 1993 till the date petitioner has worked. In case it is found that the petitioner was appointed as against sanctioned post and the petitioner has worked, then the respondent No. 3 shall pay the salary to the petitioner as payable

to an untrained primary teacher from the date of her appointment till the date the petitioner has worked. The said exercise be done expeditiously by the respondent No. 3. The petitioner and the management may appear before the respondent No. 3 on 15.05.2015.

11. Needless to state, in case the Education Officer decides in favour of the petitioner, then the petitioner in addition to the pay scale of an untrained primary teacher shall be entitled for all other consequential benefits arising out of the same.

Rule accordingly made partly absolute in above terms. No costs.

Sd/-

[A. I. S. CHEEMA, J.]

Sd/-

[S. V. GANGAPURWALA, J.]

bsb/April 15