

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

WRIT PETITION NO. 5667 OF 2007

Sau. Premlata Ashok Upasani,
Age- 62 Years, Occupation-Pensioner,
R/o. 8B, Gangopi Apartments,
Ring Road, Jalgaon, Dist – Jalgaon. **..PETITIONER.**

VERSUS

1. The State of Maharashtra
The Secretary, The Ministry of Education,
Mantralaya, Mumbai.
2. The Deputy Director of Education,
Nasik Education Department,
Maharashtra Nasik Division,
Nasik, dist – Nasik
(Notice of the respondent no.1, 2 and 7 may
kindly be served on the Add.Govt.Pleader,
High Court, Aurangabad)
3. The Zillha Parishad, Jalgaon
At and Post – Jalgaon, Dist. - Jalgaon
4. The Education Officer [Primary],
The Zillha Parishad, Jalgaon
Zillha Parishad Office, Jalgaon,
At and Post – Jalgaon
5. The Chairman
The Purva Khandesh Hindi Shikshan Sanstha,
Jalgaon Near Shri Swami Samartha Kendra,
Pratap Nagar, Jalgaon, Dist – Jalgaon
6. The Head Master,
Sau. Ratna Jain Prathamik Vidyalaya, Jalgaon

Near Shri. Swami Samartha Kendra, Pratap Nagar,
Jalgaon, Dist – Jalgaon

7. The Accountant General (A & E) Maharashtra,
At and Post – Mumbai
8. The Municipal Corporation, Jalgaon
Municipal Office, Neharu Chauk, Jalgaon
(Notice may kindly be served on the
Commissioner, Municipal Corporation, Jalgaon)

..RESPONDENTS.

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Advocate for Petitioner : Mr.M M Bhokarikar
AGP for Respondents/State: Mr.S.K. Kadam.
Advocate for Respondent 8 : Mr.P.R. Patil.
Respondents 3 to 7 served.

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CORAM : S.S. SHINDE & P.R. BORA, JJ.

Dated: 16th November, 2015.

ORAJ JUDGMENT :- (Per S.S.Shinde, J.)

1. Heard learned Counsel for the petitioner and learned
AGP for the respondents / State.

2. This petition has been filed with the following prayer:

“c. The Hon. Court may be pleased to issue appropriate writ, order or direction to the respondent no.1 and 2 to approve and allow the senior grade to the petitioner since completion of twelve years continuous service as a teacher from the date of appointment and calculate the amount receivable from the respondent no.1, the revised amount of

pension payable to the petitioner with interest on the due amount.”

2. The respondents No.1 and 2 have filed an additional affidavit-in-reply on 17th October, 2015. Paragraphs 2 to 4 of the said affidavit-in-reply read, thus:

“2. I say and submit that, the petitioner's service w.e.f. 14/07/1981 (i.e. acquiring trained teachers qualification) to 30/9/1988 being service rendered on un-aided approved primary school has not been considered as qualifying service for computing senior grade pay scale. As such an amount of Rs.44068/- has been recovered from her.

3. I say that, now Government of Maharashtra School Education and Sports Department vide G.R. Dated 6th May, 2014 has taken decision for considering the approved service which rendered by primary teachers in un-aided schools for computing senior/selection grade and also for time bound promotion. **The G.R. Dated 6 May 2014 is annexed herewith as Exhibit – 1.** I say that, taking into consideration the provision of said G.R. Now petitioner has become eligible for getting the benefit of considering the service rendered by her on un-aided post in un-aided primary school for the purpose of computing 12 years qualifying service for granting

senior grade. Accordingly the Head Master of respondent No.6 school shall have to re-fix the pay of the petitioner. Thereafter the respondent No.6 i.e. Head of School should forward the proposal of re-fixation of pay of the petitioner for approval to the competent authority i.e. Accounts Officer Education Department Jalgaon.

4. I, say that, after receiving approval from Accounts Officer Education Department Jalgaon the proposal for revision of pension is to be submitted by Head of School to Respondent No.4 i.e. Education Officer (Primary) Zilla Parishad, Jalgaon who is competent authority to take proper action for submission the proposal of revised pensionary benefits to Accountant General Mumbai.”

3. In the light of the averments in the additional affidavit-in-reply in paragraphs 2 to 4, and also the Government Resolution dated 6th May, 2014, the petitioner's services rendered on un-aided post in un-aided school can be considered for the purpose of computing 12 years qualifying service.

4. In that view of the matter, we direct respondent No.6 to re-submit the proposal in the light of Government

Resolution dated 6th May, 2014 for re-fixation of the pay of the petitioner for approval to the competent authority i.e. Accounts Officer, Education Department, Jalgaon. Needless to observe that the petitioner will extend full co-operation to respondent No.6 for preparation and forwarding the proposal to the competent authority for re-fixation of pay of the petitioner. In case, such proposal is forwarded by the respondent No.6 to the competent authority, the competent authority to take decision thereon, within eight weeks from receipt of such revised proposal for re-fixation of the pay of the petitioner and take further steps. After the aforementioned exercise is completed by the Accounts Officer, Education Department, Jalgaon, including verification by the Education Officer (Primary), Zilla Parishad, Jalgaon, the said proposal should be immediately forwarded to the Accountant General, Maharashtra State, Mumbai. Upon receiving said proposal, the Accountant General, Maharashtra State, Mumbai, in the light of documents submitted along with proposal and also the Government Resolution dated 6th May, 2014 issued by the School Education and Sports Department, Government of Maharashtra, Mantralaya, Mumbai, shall take decision /

steps, as expeditiously as possible; however, within three months from the date of receipt of said proposal. The entire exercise is to be completed by the respondents, as expeditiously as possible; however, within six months from today. Needless to observe that, the petitioner will be entitled to make representation for refund of the amount recovered from the petitioner.

In the light of above, rule is made absolute on above terms. Petition stands disposed of. Parties to act upon authenticated copy of this order.

(P.R. BORA, J.)

(S.S. SHINDE, J.)

Kadam/*