

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 5951 OF 2014

VIVEK KASHINATH DESALE
 VERSUS
 THE STATE OF MAHARASHTRA AND OTHERS

...
 Advocate for Petitioner : Mr. Brahme Shailesh P.
 AGP for Respondents: Mr. K. G. Patil
 Advocate for respondent No.4: Mr. Ajay D. Pawar

...
CORAM : S. V. GANGAPURWALA &
V. K. JADHAV, JJ.

DATE : 17th June, 2015

PER COURT :

1. Mr. Bramhe, learned counsel for the petitioner submits that the petitioner possesses the qualification of trained graduate teacher and is appointed in the year 1997. He was erroneously terminated in 1998. As per order of School tribunal, the petitioner is reinstated in service in 2001, however, is being paid D.Ed pay scale. Writ Petition was filed in this court. This court directed the Education officer to decide about the pay scale. The Education Officer, vide its order dated 15.01.2014, directed the management to grant pay scale of trained graduate teacher and to pass such resolution. According to learned counsel the management has given the said benefit since 2014 and not from 1998 .

2. Mr. Pawar, learned counsel for the management submits that the petitioner was appointed in the year 1997 on D. Ed pay scale. Learned counsel submits that even the petitioner had given application dated 09.10.2013 stating that since four years he is discharging duties of trained

graduate teacher. Learned counsel submits that the judgment and order of the school tribunal is assailed in writ petition. Writ petition is admitted. As such, the same would be subject to the decision of the said writ petition. The petitioner has been rightly granted D. Ed. Pay scale upto 2014.

3. Learned AGP submits that as the petitioner is appointed since the year 1997-98 and as per direction give by this court, the Education Officer directed the management to pass resolution of B.Ed. pay scale from 1997-98.

4. It would be seen that the respondent management has not challenged the communication of the Education Officer. It is also not disputed that the the order of termination is set aside in the year 2001. The petitioner is reinstated in service. Prior to that, grievance of D.Ed./B.Ed. Pay scale was not made by the petitioner. Initial appointment was on D.Ed. Pay scale. However, it is found that one post of trained graduate teacher was vacant. It is not the case of management that post of trained graduate teacher was not available. Petitioner is working on trained graduate post.

5. In the light of above, there is no impediment for the management to give benefit of trained graduate teacher pay scale from the year 2001. This is more so, in a wake of the fact that the respondent management has not assailed the communication of the Education Officer dated 15.01.2014.

6. In the light of above, we pass following order.
- i. Respondent Management shall grant trained graduate teacher pay scale to the petitioner since the year 2001 instead of 1997-98 as directed by the Education Officer. The management shall take decision in this regard, expeditiously, preferably within three months and send proposal to the Education Officer.
 - ii. On receipt of the said proposal, the Education Officer shall take decision on the same within three months.
 - iii. Writ petition is accordingly disposed of. No costs.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)

JPC