

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

WRIT PETITION NO.200 OF 2015

Bhaurao S/o. Vithoba Jagtap
Age: 73 Years, Occu.: Nil/Retired
R/o: Vaijapur, Tq. Vaijapur,
Dist. Aurangabad.

- PETITIONER.

-VERSUS-

1. The State of Maharashtra
through the Secretary,
Department Ministry of School
Education at Mantralaya,
Mumbai.
 2. The Deputy Director of Education
Aurangabad.
 3. The Education Officer
(Primary)
Zilla Parishad, Aurangabad.
 4. The Chief Executive Officer,
Zilla Parishad, Aurangabad.
 5. The Chief Executive Officer,
Nagar Palika (Municipal Council)
Vaijapur, Tq. Vaijapur,
Dist. Aurangabad.
- RESPONDENTS.

Mr.Mahesh R.Sonawane, Advocate for Petitioner;
Mr.MM Neralikar, AGP for Respondent Nos. 1 & 2;
Mr.ND Sonawane, Advocate for Respondent No.5.

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

DATE : 24th April,2015.

ORAL JUDGMENT (PER:- S.S.SHINDE,J.)

1) Heard. Rule. Rule made returnable

forthwith with consent of learned Counsel appearing for respective parties. Though Respondent Nos.3 and 4 are duly served, none appears on behalf of them.

2) Learned Counsel appearing for petitioner submits that the petitioner was appointed as Assistant Teacher on 1st July, 1964 in Zilla Parishad School on a fixed pay of Rs.40/- plus dearness allowance as applicable from time to time. He was selected for training of PTC college, however, owing to family problems and poor financial condition, he could not complete the said PTC training course. It is further submitted that the service record of the petitioner is unblemished. He further submitted that on 1st January, 1976, pay scale of VIIth std. Passed primary teacher was at Rs. 250-435/- and SCC passed teachers was at Rs.260-495/-; whereas pay scale of VIIth std. Trained teacher was at Rs.260-495 and SCC passed trained teacher was Rs.290-540/-.

3) It is the further case of the petitioner that Government of Maharashtra has issued Government Resolution dated 4th October, 1983, thereby declared that the primary teachers, who have been appointed prior to 1972 and who are having continuous service and who do not possess

D.Ed. Qualification, all these untrained teachers are considered as deemed trained teachers and they are entitled for all the benefits that of trained teachers. The counsel for the petitioner invited our attention to the contents of the Government Resolution dated 4th October, 1983, which is placed on record at Exhibit-A of the petition.

4) It is further submitted that the petitioner is appointed in Zilla Parishad School before July 1972. But in view of notification dated 12th July, 1989, Director of Education, Maharashtra State, Pune, has directed to transfer all the schools functioning in Vaijapur Municipal Council, run by Zilla Parishad, Aurangabad, are transferred to Municipal Council, Vaijapur w.e.f. 1.8.1989 with its staff. It is further submitted that from 12th July, 1989, till date of retirement, the petitioner had served with the school run by Nagar Parishad, Vaijapur and his pay scale was fixed at Rs.1200-2040. The petitioner invited our attention to the position of the pay-scales in para 6 of the petition. It is submitted that as per the Government Resolution dated 4th October, 1983, the petitioner was in service as Assistant Teacher before the year 1972, hence he is entitled for the benefits of said Government Resolution. The petitioner

has passed Secondary School certificate examination held in March-October 1963. It is submitted that the petitioner made several requests to the respondent authorities, but no attention was paid to his requests, therefore, he was constrained to file this petition.

5) Learned Counsel appearing for the petitioner submits that the point/controversy raised in this petition is no longer res integra and is covered by Division Bench judgment of this court in Writ Petition No.1311/1997 (Tryambak Sonajirao Patil Vs. State of Maharashtra & Ors.) and other companion matters, decided on 13th February, 2014. Therefore, he submits that subject to verification of the service record of the petitioner, the petitioner may be given similar benefits, as are given to the similarly situated petitioners in the aforesaid Writ Petition.

6) On the other hand, learned Counsel appearing for respondents, fairly conceded that the Division Bench of this court had occasion to consider Government Resolution dated 4th October, 1983 in the aforesaid writ petitions and the view taken is that the petitioners in those writ petitions were appointed prior to July 1972 and possessing SSC qualification and they are

declared to have been deemed trained teachers and are entitled to draw initial salary in the pay band of Rs. 1200-2040 since 1986 and in the pay band of Rs. 4500-7000 since 1996 onward and accordingly the respondents were directed to release monetary benefits to the petitioners therein.

7) Upon considering the submissions of the learned counsel appearing for the petitioner in the light of pleadings in the petition, subject to verification of the service record of the petitioner and factual aspects, it appears that the petitioner's case is covered by the Government Resolution dated 4th October, 1983 inasmuch as the petitioner was appointed to 2nd July, 1972 and possessing SSC qualification prior to said date. Therefore, for the very same reasons, as are assigned by the Division Bench of this Court in the aforesaid group of writ petitions (supra), we direct the respondents to give monetary benefits to the petitioner in accordance with the Government Policy and in particular Government Resolution dated 4th October, 1983, as are given to the similarly situated petitioners in the aforesaid writ petition in terms of the directions contained in para 6 of the Judgment in the said writ petitions. However, we make it clear that so far

as factual assertions made in the petition as regards date of appointment of the petitioner; post held by him at the relevant time and educational qualifications possessed by him, the respondents would be at liberty to verify the said record minutely and then take an appropriate decision within a period of six months from today.

8) Rule is made absolute in the aforesaid terms with no order as to costs.

sd/-
(P.R.BORA)
JUDGE

sd/-
(S.S.SHINDE)
JUDGE

bdv/