

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 6630 OF 2013

(Kiran Keshavrao Girhe & Ors. vs. State of Maharashtra thr. its Secretary, Department of School Education & Ors.) WITH

WRIT PETITION NO. 6631 OF 2013

(Vinod Narayandas Karwa & Ors. vs. State of Maharashtra thr. its Secretary, Department of School Education & Ors.) AND

WRIT PETITION NO. 6481 OF 2013

(Kailash Shriram Borchate & Ors. vs. State of Maharashtra thr. its Secretary, Department of School Education & Ors.)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's orders

**CORAM : B.P. DHARMADHIKARI &
A.S. CHANDURKAR, JJ.
JANUARY 28, 2015.**

Heard Shri Kulkarni, learned counsel for the petitioners and Shri Kale and Shri Khubalkar, learned AGPs for the respondents in respective petitions.

The petitioners seek relief of upgradation of the post of Part Time Librarian to Full Time Librarian in terms of Government Resolution dated 28.06.1994. The learned counsel for the petitioners, on instructions, has restricted the claim of the petitioners in respect of prayer clause (ii) in all these writ petitions.

In terms of Government Resolution dated 28.06.1994, on number of students exceeding 1000, post of Part Time Librarian is upgraded to the post of Full Time Librarian. According to the petitioners, as the number of students had exceeded 1000, they had

approached this Court by filing Writ Petition Nos. 5126 of 2012 and 1881 of 2012 seeking aforesaid relief. This Court by order dated 25.04.2013 had directed Respondent No. 3 – Deputy Director of Education to consider the prayers as made by the petitioners regarding upgradation of the posts in question. By the impugned order dated 19.07.2013, said request has been turned down.

Shri Kulkarni, learned counsel for the petitioners has drawn our attention to an order dated 09.02.2012 that was passed in the case of one Smt. Vatsala Nana Desai. By aforesaid order, after considering Government Resolution dated 28.06.1994, the said post of Part Time Librarian was upgraded to that of Full Time Librarian from the initial date of appointment. Thereafter on 24.02.2012, effective orders came to be passed granting all benefits accruing to said employee by treating her entitled to Full Time Librarian from initial date of appointment. A perusal of said order indicates that the employee therein had joined services on 09.01.1995 as Part Time Librarian.

By order dated 29.10.2014, this Court had called upon the respondents to consider the effect of Government Resolution dated 28.06.1994 and to place on record the effect as to whether any Part Time Librarian has been upgraded as Full Time Librarian before 03.08.2006. The aforesaid order dated

09.02.2012 clarifies said position.

Though the learned AGPs are seeking further time to file rejoinder on record, it is to be noted that sufficient time was already granted to the respondents to take necessary instructions. It is to be noted that the order dated 09.02.2012 continues to hold the field and the petitioners who are similarly situated cannot be denied the benefit of upgradation. Though the petitioners have been upgraded on the post of Full Time Librarian with effect from 01.04.2006, they are entitled for similar treatment as has been granted by order dated 09.02.2012. There is nothing placed on record to justify denial of such treatment to the petitioners. The chart filed by the petitioners at Annexure A and its contents have not been specifically controverted in the reply filed by the respondents.

Hence, by accepting the stand of the State Government as reflected in the order dated 09.02.2012 passed in the case of Vatsala Nana Desai along with consequential order dated 24.02.2012, the petitioners would be entitled to similar treatment. However, as the petitioners have given up the claim of arrears of salary, aforesaid benefits would be available only for the purposes of notional pay fixation, time bound promotion and pensionary benefits in accordance with the Rules. Hence, the following order is passed:

The petitioners are held entitled to grant of

upgradation to the post of Full Time Librarian in terms of dates as mentioned in Annexure A to the petition. Rule is made absolute accordingly in terms of prayer clause (ii) in the petition. However, there shall be no order as to costs.

JUDGE

JUDGE

**G.S.*