

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

14 WRIT PETITION NO. 3658 OF 2015

UZMA KHANAM MIRZA MOIN ULLAH BAIG
VERSUS
STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner Mr. Mantri Ramesh R.
AGP for Respondents State: Mr. V. S. Badakh
Advocate for Respondents Nos.4 and 6 : Mr. Amol Kakade
h/for Mr. N.K. Kakade

**CORAM : S. V. GANGAPURWALA &
K. L. WADANE, JJ.**

DATE : 19th September, 2016

ORDER:

1. Mr. Mantri, the learned counsel for the petitioner states that the petitioner has not been paid salary as applicable from 2nd July, 2012 to 3rd August, 2014. The learned counsel submits that, to the similarly situated teachers, salary as per pay scale of 6th Pay Commission is paid. Concept of "equal pay for equal work" would apply. The respondent Institution (Maulana Azad Educational Trust) is paying paltry sum as a salary to the petitioner. The learned counsel invites our attention to the order passed by the learned Single Judge of this Court in Writ Petition No. 8837 of 2015, dated 8th December, 2015, wherein this Court had observed that the respondent Institution pays salary to the teachers even less than a peon. The

learned counsel submits that the petitioner, during the period from 2nd July, 2012 to 3rd August, 2014, was paid salary @ Rs.4500/- per month. The respondent Institution is required to pay salary as per the scale applicable and paid to the other teachers on grant-in-aid basis. As per 6th Pay commission, the petitioner is entitled for the salary at pay scale of Rs.9300-13500/-.

2. Mr. Kakade, the learned counsel for the respondents-Institution states that the Institution is a minority Institution. It does not receive any grant-in-aid. From the available funds, the Institution has to make the payment of salary. The petitioner has accepted the same at the time of joining the service. The learned counsel submits that the respondents cannot be directed to pay salary as laid down under the M.E.P.S Act and Rules nor the Institution is bound by the scale being payable to the teachers serving in grant-in-aid institutions and as per the 6th pay commission. The learned counsel, in alternative, submits that even as per the M.E.P.S. Act and Rules, the amendment is only incorporated to the extent of 4th Pay Commission and the payment can only be directed to be made as per 4th Pay commission. The learned

counsel relies on the judgment of this Court delivered at Nagpur Bench in a case of **Mahadeo Pandurang More and others Vs. The State of Maharashtra and others**, reported in 2014 (5) Mh. L.J. 877.

3. We have considered the submissions.

4. The arguments of the learned counsel for the petitioner that the petitioner would be entitled for salary as per 6th Pay Commission though the Institution is not aided one cannot be accepted in view of the Judgment of Division Bench of this Court in case of **Mahadeo Pandurang More and others** referred supra.

5. The contention of the respondent Institution that as the respondent Institution is a non grant-in-aid Institution, it cannot be directed to pay the salary as laid down under the M.E.P.S. Act and Rules also cannot be accepted. The respondent Institution is governed by the provisions of the M.E.P.S. Act and Rules and is duty bound to adhere to the provisions laid down therein. The pay scale is prescribed under the said Act and Rules and the respondent is bound to make the payment as per the same. It is also not the case that there is an inordinate delay in filing the petition. The difference in the unpaid salary is

claimed for a period from 2nd July, 2012 to 3rd August, 2014. Even if the law of limitation is applied, the claim is within limitation.

6. In view of the judgment of the Division Bench of this Court in case of **Mahadeo Pandurang More and others** referred supra, the Respondent Institution will be liable to pay the petitioner, the salary as per the 4th pay commission scale, as incorporated under the M.E.P.S. Act and Rules.

7. In light of the above, we pass the following order:

O R D E R

The respondents-Institution shall pay difference of salary to the petitioner from 2nd July, 2012 to 3rd August, 2014 by computing the salary payable as laid down in the scale incorporated in the M.E.P.S. Act, and the M.E.P.S. Regulation i.e. 4th Pay Commission. The same shall be paid expeditiously, preferably within six months from today.

Writ Petition is accordingly disposed of.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC