

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6145 OF 2016

Tulsiram s/o Deochand Mohane,
Age : 65 years, Occu. Retired,
R/o 43, Vedu Govindnagar,
Nandurbar, Dist. Nandurbar

PETITIONER

VERSUS

1. The State of Maharashtra,
through the Secretary,
School Education & Sports Department,
Mantralaya, Mumbai-32
2. The Director of Education
(Secondary and Higher Secondary),
Maharashtra State, Pune
3. Dy. Director of Education,
Nasik Division, Nasik
4. Education Officer (Secondary),
Zilla Parishad, Nandurbar
5. The Secretary,
Paschim Khandesh Bhagini
Seva Mandal, Dhule through
through Head Mistress,
Kamal Neharu Kanya Vidyalaya,
Nandurbar, Dist. Nandurbar

RESPONDENTS

Mr. P.B. Patil, Advocate for the Petitioner
Mr. S.D. Kaldate, A.G.P. for respondent Nos. 1 to 4
Mr. Mukul S. Kulkarni, Advocate for respondent No. 5

CORAM : S.S. SHINDE AND
SANGITRAO S. PATIL, JJ.

DATE : 9th AUGUST, 2016

PER COURT :

Rule. Rule made returnable forthwith. With the consent of learned counsel for the parties, heard finally.

2. It is the case of the petitioner that he is the husband of deceased Nirmala Tulsiram Mohane who was serving as Head Mistress in respondent No. 5 school. She was selected by the State as State Awardee teacher on 2nd January, 2010. She died on 23rd July, 2014. Till 25th June, 2015, the benefit of Awardee teacher was not extended to the wife of the petitioner. Subsequently, the said benefit was extended to the deceased wife of the petitioner during her lifetime. However, it appears by the impugned order/letter 17th February, 2011, issued by the Deputy Director of Education, Nasik Division, Nasik, two advance increments which were given in favour of the petitioner's wife came to be withdrawn. Hence, this writ petition.

3. The learned counsel for the petitioner submits that the petitioner's case is covered by the orders of this Court, dated 16th February, 2014, passed in Writ

Petition No. 6116/2014 (Suresh Raghoba Bhowate Vs. The State of Maharashtra and others) and other connected writ petitions and the order dated 17th February, 2016, passed in Writ Petition No. 10174/2015 (Shaikh Mazharuddin s/o Kutboddin). The learned counsel for the petitioner further submits that once the benefit was extended, there was no reason for the respondents to withdraw the same.

4. On the other hand, the learned A.G.P., appearing for the State, invited our attention to the Government Resolution dated 1st February, 2016, issued by the School Education and Sports, Department, Government of Maharashtra, Mantralaya, Mumbai and submits that by way of issuing the said Resolution, it is made clear that the Government Resolution dated 4th September, 2014, issued by the said Department is made applicable prospectively and not with retrospective effect. He further submits that the said Govt. Resolution has clarified that the teachers who are declared as the State/National Awardees during the period 2005-06 to 2012-13 will be entitled for grant of two advance increments. The learned A.G.P., therefore, submits that

this Court may pass the appropriate order.

5. We have considered the submissions of the learned counsel for the petitioner, the learned A.G.P and the learned counsel for respondent No. 5. The fact that already, the benefit was extended to the petitioner's wife as the State Awardee teacher is not in dispute. The State, by way of issuing the aforesaid Government Resolution dated 1st February, 2016,, has clarified that those State Awardee teachers who have been granted the said benefit during the period from 2005-06 to 2012-13, they are entitled for grant of two advance increments. By the said Govt. Resolution dated 1st February, 2016, it is also made clear that the Govt. Resolution dated 4th September, 2014 is made applicable prospectively and not with retrospective effect. In that view of the matter, the reasons assigned in the impugned communication/order passed by the Deputy Director of Education, Nasik, dated 17th February, 2011 are not sustainable. In the circumstances, we pass the following order.

- (i) The impugned communication dated 17th February, 2011, issued by respondent No. 3 is quashed and

set aside.

(ii) The order dated 31st January, 2011, issued by the Deputy Director of Education, Nasik, giving benefit of advance two increments to the petitioner, is revived and stands restored.

(iii) Rule is made absolute on the above terms.

(iv) The writ petition stands disposed of accordingly.

6. The parties to act on authenticated copy of this order.

[SANGITRAO S. PATIL]
JUDGE

[S.S. SHINDE]
JUDGE

npj/wp6145-2016