

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

WRIT PETITION NO.7179 OF 2016

1. Madhav Yadav Vyawahare,
Age 76 years,
Occu: Pensioner,
R/o. Sevala, Tq.Kalamnuri,
District Hingoli
2. Kamalbai Vinayakrao Kharwadkar
Age 70 years, Occu: Pensioner
R/o. as above.
3. Jijabai Chokhaji Balkhande
Age 65 years, Occu: Household,
R/o. Akhada Balapur, Tal. Kalamnuri
District Hingoli. **PETITIONERS**

VERSUS

1. The State of Maharashtra
Through: Secretary,
Ministry of School Education,
Mantralaya,Mumbai – 32.
(Copy to be served on Govt. Pleader,
High Court, Bombay, Bench at
Aurangabad)
2. The Deputy Director of Education,
Aurangabad, Dist. Aurangabad.
3. The Chief Executive Officer,
Zilla Parishad, Hingoli,
District Hingoli.
4. The Education Officer (Primary)
Zilla Parishad, Hingoli,
District Hingoli. **RESPONDENTS**

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Mr.B.S.Kudale, Advocate for petitioner
Mrs.M.A.Deshpande, AGP for Respondent / State
Respondent nos.3 and 4 served.

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

Reserved on : 25.07.2016
Pronounced on : 27.07.2016

ORDER: (Per S.S.Shinde, J.):

1. This Petition takes exception to the order dated 10.02.2013 issued by respondent no. 3 - Chief Executive Officer, Hingoli, bearing Outward No.ZP/CV/Adm./1073/13/Edu. Dept./ZP, Hingoli, and seeking directions for grant of salary in the pay band of Rs.1200-2040/- since 1986 and in the pay band of Rs.4500-7000/- since 1996 onwards, and also seeking directions for release of monetary benefits in accordance with determination of pay band, so also, seeking disbursement of monetary benefits to the petitioner as expeditiously as possible.

2. It is the case of the petitioners

that the petitioners are serving as Primary Teachers in the School operated by Zilla Parishad and appointed in between 1965 to 1967. The petitioners are giving herein below a chart showing their educational qualifications, date of appointment and date of retirement from the services.

Petitioners number as per title	qualification of petitioners	Date of appointment	Date of retirement
01.	HSC	01.07.1964	30.11.1999
02.	SSC	23.09.1965	31.01.2002
03.	SSC	25.10.1967	31.12.2003

The husband of petitioner no.3 Chokhaji Balkhande passed S.S.C. He died on 02.10.2014. Petitioner no.3 is the wife, who is representing Chokhaji Gyanoji Balkhande. Petitioner nos.1 to 3 (passed SSC)/JHSC qualification and they are deemed trained teachers (Primary). Respondent No.3 Chief Executive Officer, Zilla Parishad, Parbhani, was the Head of Zilla Parishad, Hingoli

before formation of Hingoli District and he has issued the list of deemed trained teachers of Parbhani District, including the present petitioners, who were from Hingoli District.

3. It is further the case of the petitioners that in the deemed trained teachers' list, their names are shown in the list of Parbhani District dated 06.06.1991 at serial nos.213, 229 and 246 respectively. The Government Resolution dated 04.10.1983 issued the Education & Employment Department, Mantralaya, Mumbai thereby declaring that the teachers appointed prior to 02.07.1972 are possessing SSC/HSC qualification are deemed trained teachers. In the aforesaid Government Resolution, it has been further directed that such teachers shall be entitled to claim monetary retiral benefits treating them as deemed trained teachers.

4. It is further the contention of the petitioners that as per the said Government Resolution, respondent Chief Executive Officer, Zilla Parishad, Hingoli, by an order dated 10.02.2013 issued order of pay band as Rs.1200-1800/- from 01.01.1986 to December, 1995 and from 01.01.1996 onwards Rs. 4000-6000/- and the service band was to be given from the date of retirement. It is further the case of the petitioners that all the petitioners are given benefits by the Zilla Parishad in the pay scale of Rs.975-1660/- from 1986 onwards and pay scale of Rs.3200-4900/- from 1996. The petitioners made oral representation to the Chief Executive Officer, Hingoli that they are entitled to claim salary in the pay scale prescribed for deemed trained teachers in accordance with Schedule-C, Part-I, item 4-C applicable to the Maharashtra Employees of Private Schools [Conditions of Service]

Rules, 1981 [for short 'the Rules of 1981'] and as per the Government Resolution dated 04.10.1983. However, the Chief Executive Officer did not properly appreciate the contention of the petitioners and by misinterpreting the said provisions and the Government Resolution has granted pay scale of Rs.1200-7800/- from 01.01.1986 onwards and Rs.4000-6000/- from 01.01.1996 onwards, which is contrary to the provisions made in the Government Resolution dated 04.10.1983. Hence this Writ Petition.

5. The learned counsel appearing for the petitioners submits that the Bombay High Court Bench at Aurangabad in similar set of facts in group of Writ Petitions filed by the similarly situated employees like the petitioners has taken a view that the petitioners therein are deemed trained teachers and entitled for the pay scale of Rs.1200-2040/- since 1986 onwards and pay

scale of Rs.4500-7000/- since 1996 onwards. The petitioners are standing on the same footing and therefore they are also entitled for the aforementioned pay scale as granted by this Court in the case of similarly situated employees. It is further submitted that the respondent Zilla Parishad even did not bother to make payment as per the pay scale prescribed by issuing order dated 10.02.2013.

6. Though, the notices are issued for final disposal of this Petition on 5th July, 2016, and the respondents are served, none appears for the respondent Zilla Parishad, therefore, pleadings and grounds taken in the Petition remained unconverted on behalf of the respondent Zilla Parishad.

7. We have heard the learned counsel appearing for the petitioners and the learned AGP appearing for the respondent – State.

Perused the pleadings in the Petition, grounds taken therein, annexures thereto and the documents placed on record. The Division Bench of the Bombay High Court Bench at Aurangabad in the case of *Tryambak s/o. Sonajirao Patil Vs. State of Maharashtra and others* in Writ Petition No.1311/1997 along with connected Writ Petitions has considered the similar controversy and reached to the conclusion that the petitioners in the said Writ Petition are appointed prior to July 1972 and holding SSC qualification are declared as 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 onwards. Accordingly, the Division Bench directed the respondents to release monetary benefits in accordance with the determination in the light of the observations made in the said Judgment. Respondents were directed to

disburse monetary benefits receivable by each of the petitioner within a period of six months from the date of Judgment.

8. In the facts of the present case also, it is evident that each of the petitioners i.e. petitioner no.1 who was HSC and the petitioner nos.2 and 3 who were possessing SSC qualification were appointed during the period from 01.07.1964 to 25.10.1967 on the respective dates mentioned in para 2. They have retired from the services on attaining the age of superannuation. Therefore, applying the ratio laid down in the case of *Tryambak s/o. Sonajirao Patil (supra)*, since the petitioners herein are appointed prior to July 1972 and are holding SSC qualification, are declared as deemed trained teachers and are held 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

onwards. Accordingly, the impugned order dated 10.02.2013 issued by respondent no.3 Chief Executive Officer stands quashed and set aside. The respondents are, therefore, directed to release monetary benefits in accordance with the determination as above. Respondents shall disburse monetary benefits receivable by each of the petitioner, as expeditiously as possible, preferably within a period of six months from today. Accordingly, the Writ Petition is disposed of.

Sd/-
[P . R . B O R A]
JUDGE

Sd/-
[S . S . S H I N D E]
JUDGE