

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD.****WRIT PETITION NO. 10670 OF 2015**

Chandrakant Janardhan Walekar,
age 57 years, occu. Service,
r/o at post Nizampur, Tq. Sakari,
Dist. Dhule.

..PETITIONER.

VERSUS

1. The State of Maharashtra,
through the Secretary, School Education,
Mantralaya, Mumbai-32.

2. The Deputy Director of Education,
Nashik.

3. The Education Officer (Secondary),
Dhule.

4. Adarsh Vidhya Mandir, Nizampur,
Jaitane, Tq. Sakari, Dist. Dhule,
through its Head Master.

..RESPONDENTS.

...
Advocate for Petitioners : Mr.Mahajan Surekha P.
AGP for Respondents/State: Mr.S.K. Tambe.
...

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

Dated: FEBRUARY 15, 2016.

ORAL JUDGMENT: [Per SHINDE, J]

1. Rule, returnable forthwith. By consent of the parties,

taken up for final hearing.

2. Heard learned Counsel for the parties. It is submission of the learned Counsel for petitioner that, at the time of appointment of the petitioner, petitioner was having qualification of B.A. B.Lib. The petitioner acquired degree in Library Science in the year, 1983. The learned Counsel for petitioner invited our attention to the unreported judgment of the Division Bench of this Court at Principal seat in case of ***Sachin Shankar Divkar vs State of Maharashtra & Ors.*** ***(Writ Petition No.177 of 2011 with connected petitions)*** and submits that, in para 7 of the said judgment, it is observed that, in the case of *Avinash Shivaji Gaikwad Vs. The Education Officer (Secondary), Zilla Parishad, Solapur and Ors.* *in Writ Petition No.4424 of 2003*, the Division Bench of the High Court has observed, thus:

“The requirement of appointment prior to 27th December, 1979 is applicable only in respect of librarians who do not possess a Bachelor's degree in library science but, possess only a diploma. The word 'or' in the pay-scale is used disjunctively.”

The Division Bench, in the aforementioned unreported judgment in the case of **Sachin Shankar Divkar** has agreed with the view so taken in the case of Avinash Shivaji Gaikwad (*supra*) and held the petitioners therein to be entitled for the relief of revised pay-scale, being graduate in Library Science. It is also held that, the fact that the petitioners have been appointed after 27.12.1979 would make no difference.

Therefore, learned Counsel for the petitioner submits that, when the petitioner was possessing Bachelor's degree at the time of appointment, applying the same ratio as in the aforementioned judgments, the petitioner was entitled for the pay-scale of Rs.365-760 at the relevant time of his appointment.

3. Learned Assistant Government Pleader appearing for the state, relying upon the averments in the affidavit-in-reply filed on behalf of the respondent No.3 and also the judgment in the case of **Sachin Shankar Divkar** (*supra*), has submitted that the requirement of appointment prior to 27.12.1979 was applicable only in respect of librarian who do not possess a bachelor degree in library science and passed

only diploma. Therefore, he submits that, this Court may pass appropriate orders keeping in view the judgments on which reliance has been placed by the Counsel for the petitioner.

4. We have considered the submissions of the learned Counsel for the petitioner and learned AGP appearing for the State; with their able assistance, perused the pleadings in the petition, annexures thereto, reply filed by respondent No.3.

5. The petitioner has placed on record *interse* communication between the Principal / Head Master and the Education Officer, Zilla Parishad, Pune dated 9th August, 1983 wherein, the qualification of the petitioner – C.J. Walekar is mentioned as “B.A. B.Lib.” Even, in the letter written by the Education Officer, Zilla Parishad, Pune addressed to the *Secretary, Bhimthadi Shikshan Sanstha, Daund (Pune)*, the qualification of the petitioner is mentioned as “B.A. B.Lib. (Librarian).” The fact that the petitioner possessed B.A. B.Lib. qualification at the time of appointment is not disputed by the respondents.

6. In that view of the matter, case of the petitioner is squarely covered by the judgment of the Division Bench of this Court dated 18th December, 2012 delivered in case of ***Leeladhar Purushottam Narkhede Vs The State of Maharashtra and Ors.*** (Writ Petition No.7624 of 2012), paragraph 4 of which reads, thus:

“4. The case of the petitioner is squarely covered by the Division Bench judgment of this Court in Writ Petition No.177/2011 and other companion writ petitions decided on 28.04.2011. In paragraph No.7 of the judgment referring to the judgment in Writ Petition No.4424/2003, this Court has observed thus -

“7. Notably, the interpretation of the above clause came up for consideration before the Division Bench of this Court in the case of ***Avinash Shivaji Gaikwad Vs. The Education Officer (Secondary) Zilla Parishad, Solapur and Ors in Writ Petition No.4424/2003.*** The Division Bench observed as follows:

“The requirement of appointment prior to 27th December, 1979 is applicable only in respect of librarians who do not possess a Bachelor’s degree in library science but, possess only a diploma. The word ‘or’ in the pay scale is used disjunctively.”

7. For the same reasons recorded in the judgments referred herein before and in case of **Leeladhar Purushottam Narkhede** (supra), we are of the opinion that, the petitioner was entitled for the pay-scale of Rs.365-760, at the time of initial appointment in the year, 1983.

8. In that view of the matter, we hold that the petitioner was entitled for the pay-scale of Rs.365-760 at the time of initial appointment. Accordingly, we direct the respondent No.3 to revise the pay-scale of the petitioner keeping in view the basic pay-scale of Rs.365-760, as expeditiously as possible; however, within fourteen weeks from today and also ensure that, the petitioner receives the financial benefits in view of the said revision, within the aforementioned period.

Petition is partly allowed and stands disposed of. Rule is made absolute in above terms with no order as to costs.

[P.R. BORA, J]

[S.S. SHINDE, J]