

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7376 OF 2012

Ashok Vitthal Karale	 Petitioner
V/s.	
State of Maharashtra & Ors.	 Respondents

Mr. Vipul K. Bodhare, i/by Mr. A.M. Joshi, for the
Petitioner.

Mrs. M.P. Thakur, A.G.P., for Respondent Nos.1
and 2.

Mr. G.N. Salunke, i/by Mr. Umesh Kurund, for
Respondent No.5.

CORAM : RANJIT MORE &
DR. SHALINI PHANSALKAR-JOSHI, J.J.

DATE : 7TH APRIL 2016.

P.C. :

1. Heard learned counsel for the respective parties and learned A.G.P.
2. This Petition is filed seeking following reliefs :-

“(i) The Hon'ble Court be pleased to issue Writ of Mandamus or any other appropriate writ, direction or order quashing / setting aside the reduction in scale given to the Petitioner by the Respondents in trained under graduate scale with effect from 1.10.1998;

- (ii) *The Hon'ble Court be pleased to direct the Respondents to pay / fixe the Petitioner's salary considering him as continuously serving in the scale of 1400-2600 / 5500-9000, which is the scale revised as per VIIth Pay Commission;*
- (iii) *Without prejudice to the prayer made herein above, the Hon'ble Court be pleased to direct the Respondents to give the Petitioner higher grade on completion of 12 years of service from 10.6.1998 notwithstanding the change in scale made in between and re-fix his scale accordingly."*

3. The main grievance of the Petitioner is that his reversion to "D.Ed. Scale" for the period between 1998 to 2004 was illegal.

4. One Jagannath Sambhaji Shivsharan, Deputy Education Officer, Zilla Parishad, Solapur, has filed an affidavit dated 6th December 2013. In this affidavit, he has stated that the Petitioner was appointed in the year 1989 as an "Assistant Teacher" in the School run by Respondent No.4 on 'D.Ed. Scale' and he worked on that scale till 1996. In the year 1996, the Petitioner was appointed on 'B.Ed. Scale', as Respondent No.4 started 11th and 12th Standard from the Academic Year 1995-1996. In the year 1998, the post of 'B.Ed. Scale' was abolished due to lack of the students and, therefore, the Petitioner was reverted back to 'D.Ed. Scale' from 1998 and this position was continued upto 2004. In the year 2004, the Petitioner was again appointed on 'B.Ed. Scale' due to vacancy in the said scale and, till today, the Petitioner is working on 'B.Ed. Scale'. The affidavit

also shows that the Petitioner was reverted to 'D.Ed. Scale' with his own consent.

5. In the year 1998, there were two options, namely, (i) either to revert the Petitioner to 'D.Ed. Scale' due to abolition of the post of 'B.Ed. Scale', or, (ii) to declare the Petitioner as surplus. The Petitioner having opted for reversion to the 'D.Ed. Scale', now it is not open for him to challenge the reversion.

6. The Petition is devoid of any merits and, accordingly, stands dismissed.

[DR. SHALINI PHANSALKAR-JOSHI, J.]

[RANJIT MORE, J.]