

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10569 OF 2012
WITH
WRIT PETITION NO. 3985 OF 2011

Shri Devidas Dhanaji Thakare .. Petitioner
Vs.
The Nashik Zilla Parishad, Nashik and ors. .. Respondents

Mr.N.V.Bandiwadekar, for the Petitioner.
Ms.Anamika Malhotra, for Respondents No. 1 & 2.
Mr.Vikas Mali, AGP for Respondent No.3 – State.

CORAM : SHANTANU.S.KEMKAR &
M.S.KARNIK, JJ.
DATE : 24th AUGUST, 2016

P.C. :

. Heard parties through their Counsel.

2. The petitioner claims to be appointed as the Assistant Teacher in primary school of Zilla Parishad, Nashik in the year 1989. In the year 1992, he was sent on deputation in secondary school of Zilla Parishad, Nashik. Thereafter, vide order dated 19/04/2006, petitioner's case was recommended and order was passed by the Zilla Parishad, Nashik absorbing

the petitioner in the secondary school and treated his service by counting the period rendered by him in the primary school. Since the petitioner was neither given the benefits of order of absorption dated 19/04/2006 nor he was granted the promotion for which, according to him, he was entitled, he filed Writ Petition No. 3985 of 2011. During the pendency of the Writ Petition, vide order dated 15/09/2012, the order dated 19/04/2006 was cancelled by the respondents. In the circumstances, petitioner had to file Writ Petition No. 10569 of 2012 challenging the order dated 15/09/2012 by which absorption order dated 19/04/2006 was cancelled. In the meantime, on 04/07/2014, the petitioner was appointed as a graduate teacher in the secondary school.

3. During the course of arguments, the only grievance pressed at this stage by the petitioner is that Zilla Parishad, Nashik inspite of the fact the petitioner is entitled for being considered for promotion from the post of primary teacher to secondary school teacher has not been considered the case of

the petitioner for promotion. Learned Counsel for the Zilla Parishad, Nashik though has opposed the Petition, but has stated that so far as the petitioner's grievance in regard to the consideration of his case for promotion, the same will be considered and appropriate decision as per the petitioner's entitlement shall be taken.

4. In view of the aforesaid statement made by the learned Counsel appearing for the Zilla Parishad, Nashik, we are inclined to dispose of these Petitions by directing the respondent - Zilla Parishad, Nashik to consider the petitioner's claim for promotion in accordance with the rules and in case, the petitioner is found to be entitled for promotion, consequential order and the benefits be extended in his favour as expeditiously as possible but not later than 3 months from the date of receipt of this order.

5. As regards petitioner's contention that he has not been paid salary since 04/07/2014, learned Counsel for the

respondent - Zilla Parishad, Nashik submits that in this regard also appropriate decision will be taken and the unpaid salary including all arrears will be released in favour of the petitioner within one month.

6. As regards, the petitioner's challenge to the cancellation of absorption order on the ground that the same has been passed after 6 years of the passing of the order of absorption, that too without giving notice and opportunity of hearing to the petitioner, we keep this point open for decision in case the petitioner is required to file a fresh petition.

7. With the aforesaid observations and directions, both these Petitions are disposed of.

(M.S.KARNIK, J.)

(SHANTANU.S.KEMKAR, J.)