

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.2077 OF 2015.

Samina Parveen, Warud.

..VS..

The State of Mah. Thr.its Secretary of School Education and Sports
Deptt.Mantralaya, Mumbai and others.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr.P.S.Patil, Advocate for the petitioner.
Mr.M.M.Ekre, AGP for respondent no.1.
Mr.N.R.Saboo, Advocate for respondent no.2.
Mr.P.B.Patil, Advocate for respondent no.3.

CORAM : B.P.DHARMADHIKARI AND
P.N.DESHMUKH, JJ.

DATED : APRIL 22, 2016.

This Court has issued notice in the matter on 21st of April, 2015. We also granted interim order and promotions if made were subject to further orders in present matter and also at the risk of respondent no.2 – Municipal Council.

After hearing Advocate P.S.Patil for petitioner, Advocate N.R.Saboo for respondent no.2, Advocate P.B.Patil for respondent no.3 and learned AGP for respondent no.1, we find that situation is squarely regulated by Government Resolution dated 13th August, 1990. It stipulates that when the schools earlier located in Zilla Parishad area form part of extended Municipal Council/Urban area, teachers working in such schools are transferred to Municipal

Council. It has been clarified that services rendered by such teachers with Zilla Parishad will be treated as continuous for the purposes of pay-fixation, seniority and retirement benefits.

Shri Saboo has submitted that petitioner has come to Municipal Council because of order dated 31st of December, 2009 and the facts envisaged in G.R. dated 13th of August, 1990 are therefore not relevant. Perusal of order dated 31st of December, 2009 shows that as per Government Notification dated 23rd of March, 2007, Zilla Parishad Primary Schools in Urban area are to be transferred to concerned local authorities i.e. Municipal Corporation or Municipal Council along with its building, records, proportionate staff (teaching and non-teaching) and other moveable properties. It is therefore obvious that extension of Municipal area is the contingency looked into G.R. dated 13th of August, 1990 and Notification dated 23rd of March, 2007 also stipulates the same. Norms prescribed in G.R. dated 13th of August, 1990 are therefore applicable to transfers effected by order dated 31st of December, 2009.

Petitioner before this Court therefore cannot be denied benefit of service rendered by her with respondent no.3 – Zilla Parishad. That service needs to be clubbed with present service for calculating her salary, seniority and for pension period.

We accordingly direct respondent no.2 – Municipal Council to correct her seniority and other

service records.

Writ Petition is thus partly allowed and
disposed of.

No costs.

JUDGE

JUDGE

Chute.