

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

Writ Petition No.5788 of 2015

Ku. Nirmala d/o Vasudevrao Vaidya

Vs.

State of Mah. Dept. of School Education ad Sports through its Principal Secretary,
Mantralaya, Mumbai & 4 others.

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

Court's or Judge's orders.

Mrs. U.A. Patil, counsel for petitioner.

Mr. M.M. Ekre, AGP, for respondent nos. 1,4 & 5.

Mr. J. Mokadam, counsel for respondent nos.2 & 3.

**CORAM : B.P. DHARMADHIKARI &
P.N. DESHMUKH, JJ.**

DATE : 12th April, 2016.

Learned AGP, as also advocate Mokadam
are seeking time to obtain some instructions.

Heard. Learned counsel for petitioner
submits that issue is covered by various orders of this
court. Orders passed by this court lastly on
16.12.2014 in W.P. No.6116/2014 and two other
petitions are pressed into service.

Perusal of those orders show that learned
government pleader had made certain statement and
the division bench in light thereof has proceeded to
dispose of the petitions. The relevant part of said
order is reproduced below.

“Mrs. Dangre, the learned
Government Pleader, states on the basis

of communication issued by Shri V.M. Bivalkar, Desk Officer, State Government dated 15.12.2014 that the Government Resolution dated 4.9.2014 is prospective in nature and the same would not affect the petitioners and the State/National awardee teachers, who have been granted benefit of two advance/additional increments before issuance of the Government Resolution dated 4.9.2014. The copy of the communication dated 15.12.2014 is tendered on record. It is, however, stated that a budgetary provision would be made for granting monetary benefit to the petitioners and the other State/National awardee teachers, who are entitled to the benefit of the resolutions of the State Government. It is stated that this court may grant some time to the State to release the monetary benefits flowing from the Government Resolutions issued from time to time, to the State/National awardee teachers.

In view of the statement made by the learned Government Pleader, the grievance of the petitioners would stand redressed. We, therefore, dispose of the writ petition, by accepting the statement made by the learned Government Pleader and direct the State Government to pay the monetary benefits flowing from the earlier resolutions to the petitioners, within a period of six months. Order accordingly. No order as to costs.”

In present matter, admittedly petitioner has won state award. Accordingly, her name appears

at Serial No.16 in the Government Resolution dated 25.1.2007 in list of teachers. She, therefore, became eligible to two additional increments as per government policy. This entitlement is also recognized in order dated 25.2.2008. The Deputy Director of Education at Nagpur has ordered that the amount to which petitioner becomes entitled on account of those two advance increments should be computed and released immediately. Further order was issued by Education Officer (Primary), Zilla Parishad, Gadchiroli, on 1.4.2008. However, till date petitioner has not received the benefits.

Reason therefor appears to be a communication dated 15.4.2013 sent by Chief Executive Officer, Zilla Parishad, Gadchiroli. In that communication Chief Executive Officer, Zilla Parishad, Gadchiroli (respondent no.2) has mentioned that policy of grant of two advance increments is not finalized.

However, in the light of statement made by learned Government Pleader and the orders mentioned supra it is apparent that this communication cannot come in the way of releasing two advance increments as sanctioned to petitioner on 1.4.2008 and 25.2.2008. Hence, we quash and set aside communication dated 15.4.2013 since it relates to grievance of present petitioner and direct

respondents to compute the amount due and payable to petitioner within period of two months from today. Shri Mokadam informs that respondent no. 2 Zilla Parishad has actually calculated the amount.

In this situation, we direct respondent no.1 to examine the case of the petitioner within a period of two months from today and to release the benefits to which she is found entitled within next two months.

Acceptance of such benefits by petitioner shall not preclude her from challenging the exercise undertaken.

Writ petition is, therefore, partly allowed and disposed of. No costs.

JUDGE

JUDGE

Hirekhan