IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AURANGABAD

WRIT PETITION NO. 5059 OF 2011

Prakash s/o Namdeorao Thakur ...Petitioner

VERSUS

The State of Maharashtra
and others ...Respondents

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Shri S.B.Jadhav, advocate h/f
Shri N.T.Bhagat, advocate for the petitioner
Shri Y.G.Gujarathi, A.G.P. for respondents 1 and 2
Shri S.S.Tope, advocate for respondents 3 to 7

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CORAM : S.V.GANGAPURWALA & K.L.WADANE, JJ.

DATED : 6th FEBRUARY, 2017

O R D E R :

Mr. Jadhav, learned counsel submits that the petitioner retired on 30.6.2006 as Development Officer (Education). The Education Officer on 21.5.2005 passed an order that for one year the annual increment is temporarily stopped, however, the same will not have effect of further increments and the period of suspension was also considered as paid leave.

2. The learned counsel submits that in spite of said order, pension is being calculated on a reduced band. The said aspect was represented to the respondents, however, the respondents have not paid any heed towards the same.

3. Shri Tope, learned counsel for respondent nos. 3 to 7 submits that the entry of the order passed by the Education Officer temporarily stopping increment for one year was not taken in the service book of the petitioner. The same has been corrected and the pension is being given to the petitioner as per the salary applicable to the petitioner as per the 6th Pay Commission.

4. We have considered the submissions. The order passed by the Education Officer in the disciplinary proceedings read as under :

> (१) पुढील एक वार्षिक वेतनवाढ पुढील वेतनवाढीवर परिणाम न होता एक वर्षासाठी तात्पुरत्या स्वरूपात बंद करण्यात येते.
> (२) निलंबन कालावधी दिनांक ५.६.०३ ते ३०.७.०४ हा कालावधी देय अनुज्ञेय रजा म्हणून ग्राह्य धरण्यात येतो.

It would be seen that the said order would not affect the salary of the petitioner or any further increments, only for one year that too temporarily the increment was stopped without having its effect on further increments. In view of that, only for a period of one year the petitioner would not be entitled for increment, however, for pension purposes, salary as is admissible to the petitioner as per 6th Pay Commission, will have to be considered. In view of the above, we pass following order.

5. The petitioner shall be paid pension as per the salary admissible to the Development Officer (Education) as per the 6th Pay Commission without giving effect to the stoppage of increment. The same be done expeditiously.

6. Writ Petition accordingly allowed in above terms. No costs.

(K.L.WADANE, J.) **(S.V.GANGAPURWALA, J.)**

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