

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3105 OF 2017
(Bhaskar Vishnupant Sardeshmukh and others Vs. The State of Maharashtra and others)

Mr. M.R. Sonawane, Advocate for petitioners
Mr. P.N. Kutti, A.G.P. for respondent No.1/State
Mr. P.D. Suryawanshi, Advocate for respondent Nos.3 & 4

CORAM : S.V. GANGAPURWALA AND
SANGITRAO S. PATIL, JJ.

DATE : 26th APRIL, 2017

ORAL JUDGMENT : (PER S. V. GANGAPURWALA, J.):

Rule.

2. Rule made returnable forthwith by consent of the learned counsel for the parties. The learned A.G.P. waives notice of Rule for respondent Nos. 1 and 2 and Mr.P.D. Suryawanshi, the learned counsel, waives notice of Rule for respondent Nos. 3 and 4.

3. According to the learned counsel for the petitioners, the petitioners herein are similarly situated as the petitioners in Writ Petition No.5902/2015. Since they have completed more than 18 years of service prior to 1st January, 1986, they are exempted from passing the qualifying examination. The

learned counsel relies on the Government Circular dated 18.06.2008 and the Government Resolution dated 02.09.1989. The learned counsel also relies on the Judgment dated 08.10.2013 delivered in writ petition No. 4685 of 2012.

4. Mr. Suryawanshi, the learned counsel for respondent Nos.3 & 4 submits that as the petitioners did not complete 18 years service after acquiring necessary qualification, the petitioners are not entitled for the benefits of the said Government Resolution and the Selection Grade pay. The learned AGP also supports the argument of the learned counsel for the Zilla Parishad.

5. We have considered the submissions canvassed by the learned counsel for respective parties. The issue is now no longer *res-integra* in view of the judgment of the Division Bench of this Court dated 08.10.2013 in writ petition no. 4685 of 2012. This Court, in para 20 and 21 of the judgment, has observed as under :

"20. We are not in the least enamoured by the defence taken by respondents in their affidavit in reply. Perusal of the Government decisions and communications issued from time to time makes

it abundantly clear that such teachers who have completed 18 years or more as on 01.01.1986, have been relieved from acquiring higher qualifications and such primary teachers, who complete 24 years qualifying service, from that day onwards would be entitled to Senior/Selection Grade. We would also like to take note of the fact that decisions have repeatedly referred to that the teachers who have not completed 18 years qualifying service as on 01.01.1986, are not entitled to such concession in higher qualifications. The factual matrix shows that the petitioners have completed more than 18 years of service as on 01.01.1986, and as such stand relieved from acquisition of requisite educational qualifications and as such are eligible to grant of selection grade thereafter on completion of 24 years of service as can be gathered from aforesaid extracts.

21. As clarified in Government Circular dated 18th June, 2008, referred to hereinabove, the petitioners having completed 24 years of service after 01.01.1986, would be eligible for consideration of grant of Selection / Senior grade with effect from the dates of completion of 24 years service, by respective petitioners i.e. from 13.08.1988 and 27.07.1991 respectively."

6. In the light of the above, we pass the following order:

ORDER

- i) The respondents shall consider the petitioners eligible for grant of Selection Grade pay after satisfying themselves about the petitioners having completed 18 years continuous service on 01.01.1986 and if found eligible, shall grant them pecuniary benefits and arrears arising therefrom as early as possible and preferably within a period of six months from today.
- ii) Rule is made absolute in the above terms. The writ petition accordingly stands disposed of.
No Costs.

[SANGITRAO S. PATIL]
JUDGE

[S.V. GANGAPURWALA]
JUDGE