

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

Writ Petition No.5747 of 2004

- 1) Ashok s/o Dnyanoba Chavan,
Age 32 years, Occu: Service,
R/o Hatola, Taluka Ambajogai,
District Beed.
- 2) Vinayak s/o Shivajirao Rokade,
Age 30 years, Occu: Service,
R/o Rokada Savargaon,
Taluka Ahmedpur, Dist Latur.
- 3) Satish s/o Dattu Katle,
Age 29 years, Occu: Service.
R/o Katle Galli, Renapur,
Opp. of the House of Shivmangal
Lokhande, Taluka Renapur,
District Latur.
- 4) Sanjay s/o Dnyanoba Chavan,
Age 29 years, Occu: Service,
R/o Rupchand Nagar, Renapur,
Taluka Renapur, District Latur.
- 5) Madhukar s/o Pandhari Phad,
Age 34 years, Occu: Service,
R/o. Dhaswadi, Post Ujani,
Taluka Ambajogai, Dist. Beed.
- 6) Balaji s/o. Hariman Chavan,
Age 32 years, Occu: Service,
R/o. Renukanagar, Post Renapur,
Taluka Renapur, District Latur.
- 7) Namdeo s/o. Damodhar Panchal,
Age 23 years, Occu: Service,
R/o Rokada Savargaon,
Taluka Ahmedpur, District Latur.

- 8) Pradeep s/o. Sudhakar Kale,
Age 20 years, Occu: Service,
R/o Kalewadi, Post. Renapur,
Taluka Renapur, Dist Latur. .. **Petitioners.**

Versus

- 1) The State of Maharashtra,
Through its Secretary in
School Education Department,
Mantralaya, Mumbai.
- 2) The Deputy Director of Education,
Latur Division, Latur,
District Latur.
- 3) The Education Officer (Secondary)
Zilla Parishad, Latur,
District Latur.
- 4) The Secretary,
Jaibhavani Shikshan Prasarak Mandal,
Ghansargaon, Taluka Renapur,
District Latur.
- 5) The Headmaster,
Chhatrapati Shivaji Vidyalaya,
Ghansargaon, Taluka Renapur,
District Latur. .. **Respondents.**

Shri. V.D. Gunale, Advocate, for petitioners.

Shri. A.S. Shinde, Assistant Government Pleader, for
Nos.1 to 3.

None for respondent Nos.4 and 5.

**Coram: T.V. NALAWADE &
SANGITRAO S PATIL, JJ.**

Date: 20 June 2017.

ORAL JUDGMENT (Per T.V. Nalawade, J.)

1) The petition is filed for directions against respondents, which include employer of the petitioners for paying arrears of salary of the petitioners from the initial appointments and to pay them regular monthly salary. When the matter was heard it was submitted that the petitioners were terminated in the year 2013 and the orders of terminations are challenged by the petitioners by filing appeals in the School Tribunal. In view of these circumstances, only entitlement of the petitioners to get the salary as per the pay scales for previous period is to be considered and argument on this point is heard. Nobody has turned up for the employer, respondent Nos.4 and 5.

2) It is not disputed that the petitioners were appointed by respondent Nos.4 and 5 on the posts mentioned by the petitioners in the petition. Copies of the

orders of appointments are on the record and this record is not disputed by filing reply affidavit. On the contrary, there is record to show that proposal was made for getting approval to the appointments of at least five petitioners and the proposals were made from the date of their initial appointments. There is order of Education Officer (Secondary) Zilla Parishad dated 21-10-2011 showing that approval as against permanent posts came to be accorded in respect of Ashok Chavan, Vinayak Rokde, Satish Katle, Madhukar Phad and Pradip Kale and their pay scales are mentioned. It appears that approval was given on no grant basis of their respective posts like Assistant Teacher and Peon.

3) In view of the aforesaid circumstances and as the appointments of the petitioners on the respective posts are not disputed by the employer and the school was unaided, the employer is liable to make payment. As the appointment orders show that they were as against the permanent posts and the scales were mentioned in the orders of appointments, the employer is bound to give salary as per pay scale. In view of these circumstances,

there is no other alternative than to give direction to the respondent Nos.4 and 5 to make payment of arrears of salary. In view of the subsequent developments like termination of service, the salary amount needs to be paid for the period ending the date of termination of services. If any amount is already paid that amount can be deducted and the arrears are to be paid by the respondent Nos.4 and 5. In those terms the present petition is allowed and the rule is made absolute.

Sd/-
(SANGITRAO S PATIL, J.)

Sd/-
(T.V. NALAWADE, J.)

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