

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

WRIT PETITION NO.6948 OF 2013

Dada s/o. Machindra Samudra,
Age : 40 years, Occ. Service,
r/o. At and Post Karjat
(Samudra Mala),
Dist. Ahmednagar

..Petitioner

Vs.

Rural Education Society,
Nagar Mirajgaon,
Tq. Karjat, Dist.Ahmednagar
through its Secretary
and ors.

..Respondents

--

Mr.L.V.Sangit, Advocate for petitioner
Mr.V.D.Hon, Advocate for respondent nos.1 and 2
Mr.M.B.Bharaswadkar, AGP for respondent no.4

--

**CORAM : S.V. GANGAPURWALA AND
SANGITRAO S. PATIL, JJ.
DATE : MARCH 20, 2017**

ORDER :

Heard.

2. Mr.Sangit, learned Counsel for the petitioner submits that the petitioner has qualification of M.A. (Marathi) and N.E.T. The petitioner belongs to scheduled tribe category.

In the year 2004, after following the due selection procedure, the petitioner was appointed to teach Marathi subject with respondent no.2 - College. In the year 2008, respondent no.2 - College became eligible to receive grant-in-aid. The petitioner, after following the due selection process, was again appointed with the said college from the reserved category in 2008.

3. The learned Counsel for the petitioner submits that the petitioner has been appointed as a full-time Lecturer in Marathi subject with respondent no.2 - College by following the due procedure. Approval to his appointment was also granted by the University. However, he is not being paid salary as per the relevant pay scale and is being paid only on clock hour basis. The Deputy Director of Higher Education has also issued directions from time to time to pay salary to the petitioner as he is selected as a full-time Lecturer. He submits that respondent no.2 did not

allow the petitioner to sign the muster-roll and therefore, the petitioner had approached the College Tribunal. The appeal of the petitioner came to be allowed along with continuity in service.

4. The learned Counsel for the petitioner submits that though the appeal filed by the petitioner was allowed by the College Tribunal, respondent nos.1 and 2 are giving the petitioner the workload of 10 periods only on clock-hour basis. Respondent nos.1 and 2 also got executed an agreement with the petitioner that the petitioner will accept the salary of 10 clock hours only and will not claim regular salary.

5. The learned Counsel for the petitioner further submits that time and again, the petitioner has approached the authority for payment of salary as per the relevant pay scale from January, 2004, however, no cognizance is being taken in this regard.

6. The learned Counsel for the petitioner submits that total 28 periods in a week are available for Marathi subject in the said college. One Shri.Mane, who was appointed prior to petitioner, is the Head of Department. He is required to undertake 18 periods and being the Head of Department, exemption of two periods is granted to him. Considering the same, the petitioner would be entitled for 12 periods. For being considered as a full-time Lecturer, 12 periods are sufficient. According to the learned Counsel for the petitioner, the Government Resolution dated 27.02.1989 would come to the aid of the petitioner. He submits that after December, 2013, salary on clock-hour basis is also not paid to the petitioner.

7. The learned Counsel for respondent nos.1 and 2 submits that sufficient workload is not available for the petitioner and only 10 periods

are available. The petitioner has been paid upto December, 2015 and the bills are forwarded to the Government. It is for the Government to pay the same. Out of to total workload of 36 hours, the workload of 28 hours in Arts faculty is grantable and remaining hours were non-grantable. There is no full-time workload available to the petitioner.

8. The learned AGP submits that even after two periods are deducted in view of the exemption for Shri.Mane on account of he being involved in administrative work, still he would be required to take 18 periods and only 10 periods would be available for the petitioner. Minimum 12 periods per week are required to be available for him to be considered as a Lecturer on full-time basis. The learned AGP relies on the Government Resolution dated 01.06.1981.

9. We have considered the submissions advanced by the learned Counsel for the parties.

There is no dispute that the Arts faculty with respondent no.2 – College is on grant-in-aid. It is also not disputed amongst the parties, that 28 periods are available in Marathi subject. The petitioner has been appointed after following the due procedure of law for Marathi subject. One Shri.Mane is senior to the petitioner. He also works as Head of the Department in the said College. As per the Government Resolution dated 01.06.1981, a Lecturer should have 20 periods per week to be considered as a full-time Lecturer. If a Lecturer does administrative work, then exemption of two periods can be given to him and those two periods can be added to the workload of second Lecturer. In the present case, those two periods will be added to the workload of the present petitioner. Still the petitioner would have 10 periods per week.

10. Copy of the Government Resolution dated 27.02.1989, which is relied upon by the

petitioner, is not produced by him on record. There is nothing to vouch the correctness of the statement that the workload is to be calculated as 18 periods of 50 minutes each for full time Lecturer and from said 18 periods, exemption of two periods is to counted. In absence of the said Government Resolution before us, it will not be possible to comment upon the same.

11. From the record, it appears that at the most, 10 periods would be available for the petitioner. Two periods fall short for the petitioner to be considered as a full-time Lecturer. It also appears that approval has been granted to the appointment of the Petitioner and his appeal is allowed by the College Tribunal.

12. It is the grievance of the petitioner that the petitioner is not being paid even on clock-hour basis after December, 2013. There

should be no impediment for respondent nos.1 and 2 – Institutions to make payment to the petitioner at least on clock-hour basis regularly. The agreement entered into between the petitioner and respondent nos.1 and 2 would not affect the legal rights of the petitioner i.e. claim in respect of payment of permissible salary.

13. In case the payment of salary is not made to the petitioner on clock-hour basis after December, 2013, then the petitioner would be entitled for the same. If the petitioner is not paid salary after December, 2013, respondent nos.1 and 2 shall forward a proposal to the authority to make payment of salary to the petitioner on clock-hour basis from January, 2014 till date, and if the proposal is forwarded, the authority shall consider the same, process it and make payment of salary admissible to the petitioner.

14. The petitioner may also approach the

Joint Director of Higher Education with regard to his grievance about availability of workload. The Joint Director of Higher Education shall, after considering the relevant Government Resolutions with regard to distribution of workload and exemption i.e. to be given to a Lecturer who is Head of Department or engaged in administrative work, shall calculate the workload and pass order accordingly. After receipt of such an application/representation from the petitioner, the Joint Director of Higher Education shall decided the same within a period of six months after hearing all the parties concerned.

15. With these directions, the Writ Petition stands disposed of.

[SANGITRAO S. PATIL, J.] [S.V. GANGAPURWALA, J.]

kbp