

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10170 OF 2016

Subhash Bhaurao Kale

.. **Petitioner**

Versus

The Education Officer and others

.. **Respondents**

Shri Avinash A. Khande, Advocate for the Petitioner.

Shri S. W. Mundhe, A.G.P. for Respondent No. 1.

Shri Amol N. Kakade, Advocate for Respondent Nos. 2 to 4.

Respondent No. 5 served.

**CORAM : S. V. GANGAPURWALA &
S. M. GAVHANE, JJ.**

DATE : 5th October, 2017

PER COURT :

1. Mr. Khande, the learned counsel for the petitioner submits that the respondent No. 1 has erroneously passed an order with regard to seniority. The petitioner and respondent Nos. 4 and 5 are shown to have been appointed on the same date. If two or more persons are appointed on the same date possessing similar qualification then the person elder in age has to be considered senior. The petitioner is elder in age to respondent No. 4, as such, he ought to have been considered senior. In the service book the date of joining is stated differently. The date of appointment as is referred in the approval order will have to be

considered the relevant date and if, the same is done then, the petitioner should be considered as senior. The order impugned is illegal.

2. Mr. Kakade, the learned counsel submits that the service book clearly states that respondent No. 4 has joined the service on 13.6.1985 and the petitioner on 9.6.1986, as such, cannot be held to be senior.

3. It appears that the date 1.3.1989 is stated as the first date of appointment only because on that date probably grant in aid is received. However, from the order it appears that respondent No. 4 has joined the respondent – Institution on 13.6.1985 and the petitioner on 9.6.1986 and since then are continuously in service.

4. It is also clear that respondent No. 4 had completed B.Ed. in 1985 itself whereas petitioner has completed B.Ed. in 1986.

5. Considering the aforesaid conspectus of the matter, we do not find any error in the impugned order.

6. The writ petition as such is dismissed. No costs.

[S. M. GAVHANE, J.]

[S. V. GANGAPURWALA, J.]