

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10782 OF 2016

Smt. Madar Tamija Mehtab,
Age : 61 years, Occu. Pensioner,
R/o Chaudhari Nagar, Barshi Road,
Latur, Tq. and District Latur

PETITIONER

VERSUS

1. The State of Maharashtra,
through its Secretary,
School Education Department,
Mantralaya, Mumbai
2. The Deputy Director of Education,
Latur Division, Latur
3. The Education Officer (Primary),
Zilla Parishad, Latur
4. The District Treasury Officer,
Latur, District Latur
5. The Aksharnanda Primary School,
Latur, District Latur,
through its Head Master

RESPONDENTS

AND

CIVIL APPLICATION NO.16348 OF 2016

IN

WRIT PETITION NO.10782 OF 2016

**(Shri Lalasaheb Rajesaheb Shaikh Vs. Madar Tamija Mehtab
and others)**

Mr. Anand V. Patil-Indrale, Advocate for the Petitioner
Mr. A.P. Basarkar, A.G.P. for the respondent/State
Mr. U.B. Bondar, Advocate for respondent No. 3
None appears for the applicant in C.A. No. 16348/2016

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

DATE : 11th APRIL, 2017

ORAL ORDER :

Heard.

2. Mr. A.V. Patil-Indrale, the learned counsel for the petitioner submits that the petitioner was appointed with respondent No. 5 – School in the year 1977 under the appointment order dated 15th June, 1977. The appointment of the petitioner was also approved. The petitioner was considered as an untrained teacher as his qualification was Montessori. The petitioner opted for voluntary retirement in 2011. The pension proposal was forwarded. The petitioner was sanctioned pension as an untrained teacher in the year 2011. The retiral benefits were paid. The pension was regularly paid to the petitioner till the year 2016. In the year 2016, the payment of pension was abruptly stopped only on the complaint made by the son-in-law of the petitioner. The learned counsel submits that the Block Education Officer had conducted the enquiry and submitted his report on 1st October, 2009 in favour of the petitioner. According to

the learned counsel, the petitioner has sincerely performed duty till her retirement in the year 2011. From the date of her appointment in the year 1977, the petitioner has worked for 34 years.

3. Mr. U.B. Bondar, the learned counsel for respondent No. 3 submits that the petitioner is not qualified. Those teachers who were possessing S.S.C. qualification and were appointed prior to 1972 were considered as trained teachers. The petitioner was appointed in the year 1977. It was obligatory upon the petitioner to get the required qualification by 1986. The same having not been done by the petitioner, she is not entitled to be confirmed as a teacher. The order of approval would not enure to the benefit of the petitioner, nor the same appears to be legal and proper. Mr. Bondar further submits that the respondents – Authority had directed the petitioner and the Management to submit the details about the qualification of the petitioner, the appointment order and other relevant documents. The same are not submitted by them.

4. We have considered the submissions canvassed by the learned counsel for the respective parties and the

learned A.G.P.

5. It appears from the record that the petitioner was appointed in the year 1977 and since then, she was performing her duties. Even the appointment of the petitioner has been approved by the Education Officer in the year 1980, which is placed on record. The same is also confirmed in the year 1984. The petitioner has opted for voluntary retirement in the year 2011. It appears from the record that the pension was sanctioned to the petitioner. The petitioner was paid pension from the year 2011 to 2016 and in 2016, it is abruptly stopped.

6. It is a fact that the petitioner does not possess the qualification of D.Ed. or B.Ed. The petitioner certainly was not a trained teacher; however, the petitioner could have been considered as an untrained teacher. Moreover, the objection raised with regard to the eligibility of the petitioner for being appointed as a teacher is after retirement of the petitioner. The petitioner has performed her duty for 34 long years. The pension is not a bounty. The petitioner would be entitled for the pension as an

untrained teacher. It is stated that she was being paid pension as an untrained teacher only. In the circumstances, we pass the following order:-

7. The impugned communication dated 6th August, 2016 is quashed and set aside. The respondents shall continue to pay the monthly pension to the petitioner. The arrears of the pension shall be paid to the petitioner within a period of six months and regular monthly pension shall be commenced to the petitioner forthwith.

8. With the above directions, the Writ Petition is disposed of. No costs.

9. In view of disposal of the Writ Petition, Civil Application No. 16348/2016 stands disposed of.

[SANGITRAO S. PATIL]
JUDGE

[S.V. GANGAPURWALA]
JUDGE