

Amrut

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO. 593 OF 2017

Shridhar Vishwanath Pendse	... Petitioner
<i>Versus</i>	
State of Goa & Anr	... Respondents

Ms G Kamat, *Advocate for the petitioner.*

Shridhar Vishwanath Pendse, *Petitioner present in person.*

Ms A Razaq, *Government Advocate for the Respondents.*

CORAM: G.S. PATEL &
NUTAN D. SARDESSAI, JJ
DATED: 19th September 2017

PC:-

1. Heard.

2. We are constrained to reject this petition at the threshold but we do so on a very limited ground. The Petitioner was appointed as a government primary teacher on 18th December 1962 on a basic pay scale of Rs.160-Rs.185. At that time, the Petitioner says, such appointments were made without taking into account educational qualifications. The Petitioner took voluntary retirement on 1st January 1989. In paragraph 11 of this petition, he says that according to a Central Circular GR No 180/86, government primary teachers with more than 18 years service as on 1st January 1986 or who had completed 24 years of uninterrupted service as on that date would both be entitled to a pay scale grade of Rs.1640-Rs.2900. A pay scale

of Rs.2000-Rs.3500 was granted to 22 government primary teachers. At the time of his retirement, the Petitioner was in the pay scale of Rs.530-Rs.630 with effect from 14th October 1983. The Petitioner says he was entitled to this from an earlier date, 1st June 1978. He also says other teachers were benefited but not he and that since the date of his retirement he has been making representations including to the Governor, Government, and the Ombudsman but to no avail. Attempts for settlement at a Lok Adalat also failed.

3. Ms Razaq on behalf of the Government correctly points out that while this result may be unfortunate, it is inescapable. The government deals not with individuals on a case to case basis but classes of employees. She submits that should the Government accepts the representation then there would exist before the Government not only a raft of such petitions but the distinct possibility that others might complain of arbitrariness and discrimination. The government cannot, she submits, in our view correctly, act in an either in an arbitrary or discriminatory fashion and it is required to maintain the necessary balance.

4. We are, unfortunately, unable to see how we can in exercise of our writ jurisdiction, given the delay that confronts us, impose on the government to consider his representation with retrospective effect. We note that the representation is not only pegged to his date of his retirement but includes a demand for enhanced pay scales going back even to 1983 and to the time of the 4th Pay Commission in 1986 as well.

5. We will dispose of the petition but we will leave all contentions open and allow the Petitioner to make one final representation to the Directorate of Education. We are assured that the Directorate will consider the Petitioner's case, but without setting a precedent that might adversely affect government interests. The Petitioner must be prepared to show some flexibility himself in that behalf as well. It may not be possible for the government to accept his representation in every respect, if at all. Ms Razaq points out in fairness that the government will be unable to consider compensation for the past period but will confine itself to considering a representation for future pensionary benefits. We note and accept this statement. The Directorate of Education will take its decision within six weeks from the date when it receives the Petitioner's representation.

6. With these observations, the petition is disposed of.

7. The Civil Application does not survive and is disposed of accordingly. All contentions are left open.

NUTAN D. SARDESSAI J.

G. S. PATEL J.