

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO. 514 OF 2010
WITH
CONTEMPT PETITION NO. 18 OF 2012

Mrs. Susan Vaz,
resident of House no.591,
Orgao, Loutolim, Salcete, Goa.

... Petitioner

V e r s u s

- (1) THE DIRECTOR OF
EDUCATION, Government
of Goa, Directorate
of Education, Panaji, Goa.
- (2) STATE OF GOA, through
its Chief Secretary,
having office at
Secretariat,
Porvorim, Bardez-Goa.
- (3) SHRI DAMODAR B. NAIK,
Deputy Education Officer,
Central Educational Zone,
Panaji-Goa.
- (4) SHRI RAMRAO H. PATIL,
Principal, Government
Higher Secondary School,
Vasco, Baina,
Vasco-da-Gama, Goa.
- (5) SHRI KOTI S. FATARODDIN
Principal, Government
Higher Secondary School,
Sanquelim, Goa.
- (6) SMT. SWARUPA V. NAIK
GAONKAR ALIAS SWARUPA
SATISH DESAI,
Principal, Government
Multipurpose Higher
Secondary School,
Margao-Goa.

(7) GOA PUBLIC SERVICE
COMMISSION, through
its Chairman, having
office at Panaji-Goa.

.... Respondents.

A N D
CONTEMPT PETITION NO. 18 OF 2012

Mrs. Susan Vaz,
resident of House no. 591, Orgao,
Loutolim, Salcete, Goa.

..... Petitioner

V e r s u s

1. Dr. Celsa Pinto
Director of Education,
Government of Goa,
Directorate of
Education, Porvorim,
Panaji – Goa.

2. Mr. K. Dwarkanath Row,
Chairman,
Goan Public Service Commission,
EDC House, Block, 1st Floor,
Dada Vaidya Road, Panaji, Goa.

3. Director of Education,
Government of Goa,
Directorate of Education,
Porvorim, Panaji, Goa.

..... Respondents

Mr. D. Pangam and Mr. P. Sawant, Advocates for the Petitioner.
Mr. D. Lawande, Advocate General with Ms. Priyanka Kamat, Addl.
Government Advocate for the Respondent no. 1.

Coram :- **F. M. REIS,**
 NUTAN D. SARDESSAI, JJ.

Date : **2nd August, 2017**

ORAL JUDGMENT

Heard Shri D. Pangam, learned Counsel appearing for the
Petitioner and Mr. D. Lawande, learned Advocate General appearing for the

Respondent no. 1.

2. The above Petition, inter alia, prays for the following relief :

(A) This Hon'ble Court be pleased to issue a direction to the Respondent nos. 1 and 2 to quash and set aside Order dated 31.03.2010 (Annexure "H" to the Petition;

(B) In the alternate, this Hon'ble Court be pleased to issue a writ of mandamus or any other appropriate writ, order or direction, commanding the Respondent nos. 1 and 2 to withdraw, revoke and cancel the order dated 31.03.2010 (Annexure "H" to the Petition;

(C) This Hon'ble Court be pleased to issue a further writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction, commanding the Respondent nos. 1 and 2 to forward the case of the Petitioner to the Respondent no. 7 for consideration for promotion to the post of Deputy Education Officer/Principal, Government Higher Secondary School/Deputy Director/SIE/Vocation Education Officer/Joint Secretary (GBSHSSE).

3. The main contention of Mr. Pangam, learned Counsel appearing for the Petitioner is that merely because the Petitioner was on an extended period in service in view of a State Award granted to the Petitioner, the Respondent no. 7 did not consider the Petitioner for promotion. The learned Counsel further pointed out that the terms on which such Award was granted would itself not disentitle the Petitioner from being considered for such promotion.

4. When Rule was issued by this Court, an interim direction was issued in the order dated 27.07.2010 wherein it was observed at Para 3 thus :

"If there is a vacancy available as of today, while making appointment to the said vacant post, the

case of the Petitioner will have to be considered on merits. Hence, by way of interim relief, we direct that while filling up any of the aforesaid vacant posts, the case of the Petitioner for appointment to the said posts shall be considered in accordance with law.”

5. Thus, interim directions were issued whereby, while filling up any of the vacant post, the case of the Petitioner for appointment to the said post had to be considered in accordance with law. Despite of the said directions, at the subsequent meeting of the Respondent no. 7, the Petitioner was again not considered as she had already retired. But, however, in view of the interim directions issued by this Court, it was incumbent upon the GPSC to consider the Petitioner for such vacant post.

8. Mr. Lawande, learned Advocate General appearing for the Respondent no. 1, submits that though he does not dispute that the Petitioner should have been considered at the GPSC meeting held on 14.06.2011, in terms of the interim Order, nevertheless, according to him, the Petitioner was not entitled for such promotion because, according to him, the incumbent selected was Senior to the Petitioner.

10. Mr. Pangam, learned Counsel appearing for the Petitioner, however disputes the said contention and pointed out that the records reveal

otherwise.

11. We are not examining the rival contentions with that regard but the only aspect we propose to examine is whether the Respondent no. 7 was justified to refuse to consider the Petitioner for a promotion despite of the interim directions issued by this Court in the said order dated 27.07.2010. Once the Order has such specific directions, it is not open to the Respondent no. 7 to proceed to hold a meeting and refuse to examine the entitlement of the Petitioner on such ground.

12. In view of the above, we are of the considered view that considering the interim directions issued by this Court, the Respondent no. 7 was not justified to refuse to consider the Petitioner for the subject promotion and refuse to act accordingly on the ground that the Petitioner had already retired. The Respondent no. 7, as such, shall hold a fresh meeting and consider the Petitioner for the subject promotion in accordance with law. Needless to say, in case the Petitioner is entitled for such promotional post as the Petitioner has now retired, the Petitioner shall be entitled for retirement benefits in accordance with law.

13. In view of the above, we pass the following :

ORDER

(i) The Respondent no. 7 is accordingly directed to hold a fresh GPSC Meeting to consider the Petitioner for the subject promotion in accordance with law uninfluenced by the decision taken in the earlier meetings dated 19.03.2010 and 14.06.2011 within eight weeks from today.

(ii) Rule is made absolute in the above terms.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

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