

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7147 OF 2013

Mangal Ashok Chavan

..Petitioner

Vs.

The State of Maharashtra and Others ..Respondents

Mr. Akshay Shinde i/b Mr. Jayant J. Bardeskar, for the
Petitioner.

Mrs. M. S. Bane, 'B' Panel Counsel, for the Respondents 1 to 4.

CORAM :- S.C. DHARMADHIKARI &
B.P.COLABAWALLA, JJ.

DATE :- MARCH 1, 2017.

P. C.:

Rule. Respondents waive service. By
consent, rule made returnable forthwith.

2 By this Writ Petition under Article 226 of the
Constitution of India, the Petitioner is seeking the relief of

issuance of writ of mandamus or any other order or direction in the nature thereof directing the Respondents to refix the monthly salary of the Petitioner by taking into account the fact that the Petitioner was initially appointed in a pay scale set out in prayer clause (a) which was also revised in terms of the amounts set out in the very prayer and further revised so also to pay all the arrears.

3 Then, the amended prayers seeks the following reliefs:

"(b):To quash and set aside the impugned Communication dated 10.09.2012 (Exhibit C) being illegal,baseless and contrary to various Judgments passed by this Hon'ble Court;

(c): To hold and declare that the Petitioner is entitled for grant of pay scale of Rs.1400-2600 w.e.f. 01.10.1990 i.e. the date of appointment of the Petitioner as Full-time Librarian and for subsequent revision of pay-scale in accordance with the recommendations of Fifth and Sixth Pay Commission;

(d):To direct the Respondents to do the pay fixation of the Petitioner in the pay scale of Rs.1400-2600

w.e.f.01.10.1990, pay scale of Rs.5500-9000 w.e.f. 01.01.1996, pay scale of Rs.6500-10500 with effect from 01.10.2002 and pay scale of Rs.9300-34800 with grade pay of Rs. 4400 w.e.f. 01.01.2006 and further to direct the Respondents to disburse the arrears on account of such pay fixation forthwith."

4 During the course of the arguments the Petitioner's counsel places heavy reliance on an order passed on 23rd December, 2013 in Writ Petition No.7963 of 2012 by a Division Bench of this Court, to which one of us (S. C. Dharmadhikari, J.) was a party (Sadanand Pandurang Mali v/s Deputy Director of Education, Secondary and Higher Secondary Education, Kolhapur and Others). While dealing with the contention of the Petitioner's advocate in that matter, the Division Bench relied upon the orders passed by this Court earlier and in identical cases. The bunch of orders compiled by the Petitioner's advocate in the present Petition includes an order passed by the Hon'ble Supreme Court of India dismissing a Special Leave Petition (Civil) No.9732 of 2012 arising from a judgment and order passed on 28th

April, 2011 in Writ Petition No.177 of 2011 by this Court. The order passed by the Division Bench of this Court in those batch of Petitions was challenged in the Hon'ble Supreme Court of India by the State and the concerned Directorate but those Special Leave Petitions have been dismissed. It is in these circumstances that the relief is claimed in terms of the earlier orders and directions of this Court.

5 Having perused this Writ Petition in its entirety and the prayers thereof, we are of the opinion that if the Petitioner claims parity with the other Librarians then, she was also appointed as a full time Librarian. She was appointed on the establishment in Kolhapur District. She was appointed as a Librarian in a high-school at Jaysingpur, Taluka Hirol, District Kolhapur. Once the Petitioner was so appointed, later-on transferred to Sangli but having worked on the said post, the qualifications and appointment never disputed by the authorities, as well then following the earlier view taken by this Court, we make the Rule absolute in terms of the above prayers. We direct that the reliefs and in the

form of arrears of the pay fixation now directed coupled with the regular pay as refixed shall be made admissible, the sums released as expeditiously as possible and within a period of two months from the date of receipt of a copy of this order. Rule is made absolute accordingly. No order as to costs.

(B. P. COLABAWALLA, J.) (S. C. DHARMADHIKARI, J.)