

DDR

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7611 OF 2003

Mrs. Kamal Jagannath Chimangaonkar
Age : 58 years, Occ. : Service,
residing at "Shrihari Niwas", 221-A,
Guruwar Peth, Satara City – 415 002.

...Petitioner

VERSUS

1. Rayat Shikshan Sanstha,
at Powai Naka, Post Tal.
and Dist. Satara.
(Through the Secretary)

2. The Head Master,
Karmaveer Bhaurao Patil Vidyalaya
At and Post : Bhuinj, Tal. Wai, Dist. Satara.

3. State of Maharashtra
through the Deputy Director of
Education, Kolhapur

4. Education Officer (Secondary)
Zilla Parishad, Satara.

...Respondents

Ms. Devyani Kulkarni, Advocate appointed by Court for
Petitioner-in-person.

**CORAM : A.A.SAYED AND
M.S.KARNIK, JJ.**

RESERVED ON : 6th JULY 2017

PRONOUNCED ON : 13th JULY 2017

ORDER (PER M.S. KARNIK, J.) :-

The petitioner-Assistant Teacher who was working with the school run by Respondent no.1-Management has filed this petition for grant of B.Ed. Scale with effect from the date when the petitioner became eligible for such scale.

2. The petitioner was appointed as an Assistant Teacher w.e.f. 1st July 1974. In 1977, the petitioner obtained B.A. Degree. It is the case of the petitioner that during 1974-1994, she was transferred eight times. On 4th Jun, 1981, a letter was written by the respondent-Management stating that the petitioner is eligible for the promotion to B.Ed. Scale. By the Memo dated 27/7/1981 the respondent- Management decided to promote the petitioner to the B.Ed. Scale of Rs.365-15-500-20-660-Extn.20-760 w.e.f. 1/8/1981. On 5th September, 1981,

Educational Officer granted approval w.e.f. 7th September 1981 for the promotion of the petitioner from D.Ed. Scale to B.Ed. Scale. On 1st September, 1982 the petitioner was transferred from Manchar, District Pune to Mahatma Gandhi Vidyalay, Pachavad, Taluka- Wai, District – Satara. From 1st September 1982 the petitioner started receiving salary in the D.Ed. Scale again and not in B.Ed. Scale. On 30th December, 1989, she was transferred to New English School, Vaduth, Taluka and District Satara. On 30th December, 1989 the petitioner made representation requesting that she may be granted salary as per B.Ed. Scale.

3. The petitioner obtained B.Ed. Degree in 1994. From 1st October, 1994, the petitioner was not allowed to resume duties and therefore, she filed an Appeal before the School Tribunal. The School Tribunal was pleased to allow the Appeal No.2/1995 vide order dated 23/4/2001 and granted reinstatement with full backwages from 1st October, 1994 upto 30/8/1997 and at the rate of 25% of the backwages for the

subsequent period i.e. from 1/9/1997 till her reinstatement.

4. It is the petitioner's case that she was granted the B.Ed. Scale on 4th June, 1981 and paid accordingly for one year. The respondents are not justified in then paying her in the D.Ed. Scale. The petitioner therefore prays that she may be paid as per B.Ed. Scale.

5. The respondent- Management denied the claim of the petitioner. According to the Management, in 1982 when she was transferred to Mahatma Gandhi Vidyalaya, District-Satara there was no vacancy of the Assistant Teacher in B.Ed. Scale therefore the respondent was justified in paying her as per D.Ed. Scale. In so far as grant of the B.Ed. Scale is concerned, they have already submitted a proposal on 20th October 2001 to the Education Officer. In the said proposal it is pointed out that one Shri Pisal was promoted w.e.f. 1st January 1994 and therefore there is one vacancy in the B.Ed. Scale. A proposal was therefore submitted to pay to the petitioner in B.Ed. Scale.

6. When the Petition came up for hearing we inquired about status of the proposal which is submitted. It was pointed out by the learned Counsel for the Management that there are some deficiencies in the proposal and the petitioner has not co-operated as a result the proposal was returned back.

7. The petitioner has prayed that she may be granted B.Ed. Scale from 1982. We are not inclined to entertain this request as the petitioner has not taken any steps and for a long time did not make any grievance about non payment of B.Ed. Scale from 1983.

8. It appears that the petitioner was transferred at her request and she was accommodated at her husband's place of posting. However, as the petitioner has obtained B.Ed. Degree from 1994 her case for grant of B.Ed. Scale as per the proposal of the Management from 12/2/1994 is required to be considered in the interest of justice. Hence in our opinion the following order will meet the ends of justice.

ORDER

1. The Management to submit a fresh proposal in respect of the Petitioner duly completed for the grant of B.Ed. Scale w.e.f. 12/02/1994 to the Educational Officer (Secondary) Zilla Parishad, Satara, within a period of 4 weeks from today. The Petitioner to co-operate with the Respondents.
2. The Education Officer may take a decision on the said proposal within a period of six weeks from the date of receipt thereof on its own merits.
3. On approval of the proposal the arrears of the salary may be paid to the petitioner within a period of eight weeks from the date of the order.
4. The Petition is disposed of. Rule made absolute on the above terms.

9. In this matter we had requested Ms. Devayani Kulkarni, learned Counsel to assist us on behalf of the Petitioner as the Petitioner was not in a position to engage a Lawyer. She has graciously accepted our request. We place on record our appreciation for the able assistance rendered by Learned Counsel Ms. Devayani Kulkarni in this matter.

(M.S.KARNIK, J.)

(A.A.SAYED, J.)