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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2849 OF 1999

Mr. Raskar Laxman Shivram

...Petitioner

Versus

State of Maharashtra & Ors.

...Respondents

Mr. V.K. Badhare i/b Mr. A.M. Joshi, for the Petitioner.

Mr. Manish Pabale, AGP for Respondents Nos. 1 to 3.

Mr. N.V. Walawalkar, Senior Advocate for Respondent No.4.

**CORAM: A.S. OKA AND
RIYAZ I. CHAGLA, JJ.**

DATED: 10th August 2017

ORAL JUDGMENT (Per A.S. Oka, J.)

1. Heard learned counsel appearing for the Petitioner, the learned AGP for 1st to 3rd Respondents and the learned Senior Advocate for fourth Respondent. None appears for fifth Respondent.

2. The Petitioner holds degrees of BA and BEd. The Petitioner was appointed as Assistant Teacher in a school run by the 2nd Respondent with effect from 5th July 1994. According to the case of the Petitioner, for Standards V to VII,

one post of graduate teacher was approved. But on 19th December 1996, the Administrative Officer of the Pimpri Chinchwad Municipal Corporation refused to grant approval to the appointment of Petitioner. In the Petition as originally filed, a Writ of Mandamus was prayed for directing the Administrative Officer of the Pimpri Chinchwad Municipal Corporation to grant approval to the Petitioner in graduate pay scale (Rs. 1400-1600). During the pendency of this Petition, the Administrative Officer of Education Board of the Pimpri Chinchwad Municipal Corporation passed an order on dated 20th October 2003 granting the approval to the appointment of the Petitioner as Assistant Teacher with effect from 5th July 1994 in trained graduate pay scale. Therefore, the main grievance made in the Petition does not survive.

3. However, learned counsel for the Petitioner invited our attention to Paragraph 5 (a) added by way of an amendment. He pointed that on the basis of the approval granted on 20th October 2003, salary bills of the salary payable to the Petitioner were submitted on 15th March 2005 by the school to the 5th Respondent, but the 5th Respondent returned the

same on the ground that the pay scale mentioned in the bills was erroneous. The submission of the learned counsel appearing for the Petitioner is that, the 5th Respondent has ignored the order of approval dated 20th October 2003.

4. There is an Affidavit in Reply filed by Mr. Sunil J. Kurhade in the office of Deputy Director of Education, Pune Region, Pune. In the said Affidavit in Reply he has relied upon order dated 20th October 2003. There is an Affidavit filed by the added Respondent No.5 Smt. Rajani Baban Gavari, Superintendent (Class – II), Pay and Provident Fund Unit, Zilla Parishad, Pune. The contention raised in Paragraph 1 is that the Petitioner did not possess the requisite qualification (SSC, DEd) for the appointment to the post of a primary teacher. In paragraph 3 of the Affidavit, she has placed reliance on the fact that the Petitioner is entitled to the pay scale of trained teacher only from May 2002. In paragraph 5, a specific stand is taken that the Petitioner is not entitled to draw graduate scale with effect from 5th July 1994. In paragraph 6, she has stated that accordingly it was instructed to the Head Master of the school to make

necessary amendments to the bills submitted.

5. Thus, it appears from the Affidavit filed by the fifth Respondent that the order of approval dated 20th October 2003 that has been completely ignored which specifically records that the Petitioner is entitled to approval with effect from 5th July 1994 in trained graduate pay scale. When Affidavit was filed by Smt. Gavari, on 12th January 2009, the order dated 20th October 2003 was already placed on record, however, she has ignored the same. Hence, we dispose of the Petition by passing following order:-

- (a) We direct the Head Master of M.M. Vidyalaya, Kalewadi to submit fresh salary bills of the Petitioner on the basis of order dated 20th October 2003 passed by the Administrative Officer of the Education Board of Pimpri Chinchwad Municipal Corporation within a period of one month from the date on which an authenticated copy of this judgment and order is produced by the Petitioner in the office of the

Head Master.

- (b) The 5th Respondent shall process the bills in accordance with law and by giving effect to the order dated 20th October 2003 passed by the Administrative Officer of Education Board of Pimpri Chinchwad Municipal Corporation. The 5th Respondent shall be bound to give effect to the said order which directs that the Petitioner is entitled to graduate pay scale from 5th July 1994.
- (c) The Head Master school shall also forward a copy of the order 20th October 2003 along with the salary bills.
- (d) The salary bills shall be processed by the 5th Respondent as expeditiously as possible and in any event within a period of two months from the date on which the bills are received by him and immediately thereafter payment shall be released.
- (e) Rule is made partly absolute on above terms.

(RIYAZ I. CHAGLA J.)

(A.S. OKA, J)