

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.773 OF 2017

Mr. Ashok Mayappa PujariPetitioner
V/s.
The State of Maharashtra & Ors.Respondents

Mr. Y.B.Lengare with Mr. M.A.Patil i/by Mrs. Suman Y. Lengare,
Advocates for Petitioner.
Mrs. Rupali M. Shinde, AGP for the Respondent Nos.1 and 2-State.
Mr. A.P.Pawar, Advocate for Respondent Nos.3 and 4.

**CORAM :- B.R.GAVAI &
SANDEEP K. SHINDE, JJ.**

DATE :- 3RD NOVEMBER, 2017.

PC. :-

Rule. Rule made returnable forthwith. Heard by
consent.

2 The Petitioner has approached this Court praying for
direction to the Respondents to set aside the order dated 16.11.2006
thereby rejecting proposal for approval to grant regular pay-scale to
the Petitioner as Assistant Teacher.

3 Heard Shri Lengare assisted by Shri Manoj Patil the
learned counsel for the Petitioner and Smt. Rupali Shinde, the
learned AGP for the State.

4 Facts in the present case are not disputed. In pursuance to the advertisement issued by the Respondent-Management, the Petitioner was duly appointed as Shikshan Sevak from the category reserved for NT. The Petitioner was initially working with the Respondent-Management as Assistant Teacher on temporary as well as clock-hour basis. However, in the year 2009 in pursuance to the advertisement, he applied for post of Shikshan Sevak for which he was duly selected. The Petitioner was appointed as Shikshan Sevak vide order dated 18.6.2009 for a period of three years. Upon completion of satisfactory services as Shikshan Sevak, Respondent-Management sent proposal for bringing him on the regular cadre of Assistant Teacher and making applicable to him the said pay-scale. However, the same is rejected vide order impugned in this Petition. Hence, the present Petition.

5 The facts with regard to the Petitioner being appointed in the reserved category of NT is not disputed in the reply filed on behalf of the State. The only ground given in the reply for not granting approval to the Petitioner as Assistant Teacher is that one Dadaso Ganpati Pawar has approached the learned School Tribunal being aggrieved by his termination. The learned School Tribunal rejected his appeal. He preferred petition before this Court which is

admitted. It is further stated that on account of pendency of the Petition of said Shri Pawar, regular pay-scale cannot be granted to the Petitioner. We find that the stand taken by the State is totally without substance.

6 The Petitioner belongs to the reserved category and has been appointed against the said category. As such, the said Shri Pawar cannot have any claim against the post against which the Petitioner is appointed in-as-much as he belongs to open category.

7 In the result, the impugned order is quashed and set aside. The Respondent-State is directed to grant approval to the Petitioner as Assistant Teacher with effect from 17.6.2012. The Petitioner shall be paid regular salary as Assistant Teacher from the month of December, 2017. Arrears shall be cleared within a period of three months from today.

8 Rule made absolute in the aforesaid terms.

9 Needless to state that arrears would also include unpaid salary for the period for which the Petitioner has worked.

(SANDEEP K. SHINDE, J)

(B.R.GAVAI, J)