

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4749 OF 2016

Maharashtra Pensioners Association ..Petitioner

Vs.

The State of Maharashtra and Another ..Respondents

Mr. N. V. Bandiwadkar, Mr. Sagar A. Mane, for the Petitioner.

Mr. C. P. Yadav, AGP, for Respondent Nos.1 and 2.

CORAM:-B.R.GAVAI & B. P. COLABAWALLA,JJ.

DATE :- DECEMBER 21, 2017.

P. C.:

Rule. Rule made returnable forth with. Heard by consent.

2 The Petitioner association has approached this Court to direct Respondent No.1 to treat the untrained primary teachers appointed after 1th July, 1972 to the school of Zilla Parishads/Municipalities/ Municipal Councils/ Municipal School Boards/Municipal Corporations and recognized Private Primary Schools as Deemed Trained and accordingly to sanction and pay

them the retirement benefits on the basis of the service rendered by them.

3 The claim of the Petitioner was rejected on the basis of the Government Resolution dated 4th October, 1983 which had specified a cut-off date of June 1972 to be eligible for the benefits of the regular teacher.

4 The issue came up for consideration before same Bench in Writ Petition No.5110 of 2012. Apart from holding that such a cut-off date providing a retrospective operation was not sustained, we have allowed the Petition. Not only that but taking into consideration the Government Resolution dated 9th March, 2010, we had observed that the Government itself had realized its mistake and issued the circular dated 9th March, 2010 which provided that the candidates who had possessed either PSC or SSC and PTC or a Diploma in Education, would be entitled for pensionary benefits. Insofar as the Communication dated 16th August, 2013 deleting the word “PSC” and “or” from the circular dated 9th March, 2010 is concerned, we have held that the said circular was not sustainable in law.

5 In that view of the matter, in view of the policy of the Government, as reflected from the circular dated 9th March, 2010, all such teachers who possess PSC or SSC along with a PTC or a Diploma in Education, will have to be treated as trained teachers for the purposes of IVth, Vth and VIth Commission recommendations.

6 Needless to say that all such teachers would also be entitled to the terminal benefits including pension in view of the aforesaid Government Circular.

7 Since this is the Petition on behalf of the association, we permit such all the teachers who would be covered by the Government Circular dated 9th March, 2010 and which has been considered by us in our judgment in Writ Petition No.5110 of 2012 dated 13th December, 2017 to apply to the respective Education Officers for the benefit in accordance with such circular. If all such applications are made, the Education Officer shall decide the same within a period of three months of making such applications. The arrears to which the said teachers would be entitled, would be paid

to them within a period of six months from their making the applications to the authority.

(B. P. COLABAWALLA, J.)

(B. R. GAVAI, J.)