

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.
WRIT PETITION NO. 1259 OF 1998

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Kamala Kalyanaraman	... Petitioner
Versus	
State of Maharashtra and others	... Respondents

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Ms.Prachi Khandge i/b M.P. Varhi & Associates for Petitioner.
 Mr.K.R.Trivedi, AGP for the State.
 (No R & P. The matter is under search)

...

**CORAM : A.A. SAYED &
M.S.KARNIK,JJ.**
DATED : 3 JULY 2017

P.C.:

By consent copies of the Petition are taken on record and the matter is heard.

2. This Petition is filed by the Petitioner invoking Article 226 of the Constitution of India seeking direction against the Respondent No.1-State of Maharashtra to recognize her as a trained teacher (Lecturer) in the Respondent No.3 College (Ruia College) and pay her salary and difference in salary accordingly.

3. The Petitioner was appointed in June 1988 on the post of Lecturer as a probationer in the Ruia College. In June 1990 the Petitioner joined the correspondence course of Annamalai University in Tamilnadu for acquiring B.Ed. Degree. She passed her examination which was held in June 1991 and she was awarded B.Ed. Degree on 10 January 1992. The Petitioner,

therefore, by communication dated 14 February 1992 addressed to the Principal of Ruia College requested that since she has passed B.Ed. Degree examination, she should be paid revised scale of Rs.2000-3500 instead of Rs.1400-2000. She made several representations to get her upgraded salary. Ultimately, a notice dated 19 January 1998 was sent to the Deputy Director of Education through her Advocate. The Deputy Director of Education by his letter dated 12 February 1998, however, informed the Petitioner's Advocate that since the Petitioner has obtained B.Ed. Degree on 10 January 1992, which was after the cut off date of 22-11-1989, she cannot be granted the benefits of trained teacher. In the said letter, the Deputy Director of Education has relied upon the letter dated 22 November 1989 of the Government of Maharashtra, wherein it was ordered that all such candidates who had been appointed in regular service on the basis of the B.Ed. Degree (correspondence) of the Annmalai University or such teachers who had after they were appointed in regular service had enrolled themselves till 22 November 1989 for obtaining the B.Ed.Degree, may be regularized from the date they obtained the said degree. It was, however, stated that since the Petitioner had enrolled herself for the said curriculum after 22 November 1989, she cannot be considered as trained teacher.

4. According to the Petitioner, since she was treated as untrained teacher despite acquiring B.Ed. Degree on 10-01-1992 and her monthly salary was continued to be paid at lesser pay-scale, she was entitled to the difference in salary with effect from January 1992 till May 1998, which works out to Rs.74,067/-.

5. A copy of order dated 14 July 1998 has been produced by the learned Counsel for the Petitioner. Perusal of the said order shows that while admitting the Petition on 14 July 1998 this Court had granted interim relief in terms of prayer clause (c), which reads as follows:

(c) That pending the hearing and final disposal of the petition, the Respondents be ordered and directed to pay to the Petitioner the salary as a trained lecturer in N.G.Acharya Marathe College of Arts, Science & Commerce, NG Acharya Marg, Chembur, Mumbai- 400071;

6. Thus, by virtue of the aforementioned interim order the Petitioner was getting her salary as a trained teacher from 14 July 1998.

7. There is no Affidavit-in-Reply on record filed by the State of Maharashtra dealing with the contentions of the Petitioner in the Petition. It is not possible to accept the case of the Petitioner that the letter dated 22 November 1989 of the Government of Maharashtra cannot be taken cognizance of as the same is not a Government Resolution and she ought

to be granted reliefs since no Affidavit-in-Reply has been filed on behalf of the State of Maharashtra.

8. Since the Petitioner has been granted interim relief on 14 July 1998 and has been receiving salary as trained teacher since, in our view, interest of justice would be served by passing the following order:

ORDER

- (i) The interim order dated 16 July 1998 is confirmed.
- (ii) Though the Petitioner is not granted the relief of difference in salary, the Petitioner shall be treated in the higher pay scale of trained teacher (with all benefits including continuity in service and consequential benefits) for the period from January 1992 to May 1998 for the purpose of fixation of pension and her pension shall be re-fixed, if necessary. This exercise shall be carried out within four months from today by the Respondent No.1 and the Petitioner shall henceforth be paid pension accordingly.

9. The Petition is disposed of in the aforesaid terms. Rule made absolute accordingly. No order as to costs.

(M.S.KARNIK, J.)

(A.A.SAYED, J.)