

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2210 OF 2002

Mrs.Vidya Hukku .. Petitioner
Vs.
The Deputy Director,
Department of Education and ors. .. Respondents

Mr.Mihir Desai, Senior Advocate a/w Mr.Vinamra Kopariha,for
the Petitioners.
Mrs. Uma Palsule-Desai, AGP for Respondents No.1 & 2- State.

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

04th JULY, 2017

P.C. :

1. The petitioner by this Petition filed under Article 226 of the Constitution of India is seeking arrears of salary from 1975 and retiral benefits. The petitioner joined the respondent – College in June 1973. In August 1975, she completed her Diploma in Higher Education. According to the petitioner, she has been teaching for VIIIth, IXth and Xth standards throughout her tenure in the respondent – College. The petitioner retired on 31/03/1990. According to the petitioner,

since she had acquired post graduate training and she was holding Diploma in Higher Education, it should be considered as equivalent to B.Ed and it ought to be equated to trained graduate scale for the purpose of standards IX and X. Though she is more qualified, she should atleast be given benefits of a trained graduate teacher.

2. In the affidavit-in-reply filed by the Deputy Education Officer, it has been pointed out that the petitioner throughout her tenure has given untrained graduate scale and has been paid untrained graduate scale salary till she retired in April 1990. The petitioner has not passed B.Ed degree which is requisite qualification for the teachers teaching in the secondary schools. The petitioner is qualified as M.A.D.H.E and she was appointed in the respondent- College as Assistant Teacher with effect from 26/06/1973 till 31/03/1990 and she was appointed as untrained teacher as she did not have professional qualification of B.Ed which was essential qualification for the appointment in the secondary school for a Assistant Teacher and

she was therefore also paid salary at untrained scale. In further affidavit-in-reply filed by the Deputy Education Officer it is stated that there is no provision in law to consider untrained teacher for pensionary benefits including pension, gratuity etc.

3. We have heard learned Counsel for the petitioner and learned AGP. It being an admitted position that as the petitioner was not holding the essential qualification of B.Ed, she could not be treated as a trained graduate teacher. Merely because she had taught VIIIth, IXth and Xth standards during her tenure or she has more qualification, she is not entitled to be treated as a trained graduate or entitled to be paid under trained graduate scale. Throughout her tenure of service, she was working on untrained scale. It is only after her retirement in April 1990, she has filed this Petition in April 2002 after a period of almost 13 years. The Petition therefore, also suffers from delay and laches. The order of Division Bench of this Court dated 25/08/2000 in the case of **Shri K.V. Krishnan Vs. The State of Maharashtra and ors. in Writ Petition No. 1556 of**

2000 on which the learned Senior Counsel for the petitioner relies, does not lay down any ratio decendi that a person who does not hold the essential B.Ed qualification has to be considered as a trained teacher and would be entitled to pensionary benefits merely because she has taught higher standards or is more qualified.

4. In view of the above, there is no merit in the Petition. The Writ Petition is dismissed. Rule is discharged.

(M.S.KARNIK, J.)

(A.A.SAYED, J.)