

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 1351/2015

(MILIND PANDURANG BORKAR **VERSUS** THE STATE OF MAHARASHTRA & OTHERS)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri D.R. Rupnarayan, counsel for the petitioner.
Mrs. H.Prabhu, A.G.P. for the R-1 to 3.
Shri S.Y. Deopujari, counsel for the R-4 & 5.

CORAM : SMT. VASANTI A NAIK AND
A.D. UPADHYE, JJ.

DATE : AUGUST 02, 2017.

By this writ petition, the petitioner seeks a direction against the respondent nos.2 and 3-Deputy Director of Education and Education Officer to fix the pay of the petitioner in the scale of Rs.365-760 from 1984 as the petitioner had secured the training qualification in the year 1984.

The petitioner was appointed as an Assistant Drawing Teacher in the respondent no.5-School on 23.07.1981. At the relevant time, the petitioner possessed the diploma in A.T.D. The petitioner secured the bachelors degree in Fine Arts in the year 1984 and according to the petitioner in view of securing a bachelors degree, he was entitled to a higher pay-scale from the year 1984. The petitioner secured some more degrees in the year 1985, 1986 and 1988 with which we are not concerned in this writ petition. It is the case of the petitioner that after he secured a bachelors degree in Fine Arts in the year 1984, he made representations to the respondent nos.2 to 5 seeking the fixation of the salary in the higher pay-scale. According to the

petitioner since his representations were not favourably considered by the management and the school in which the petitioner was teaching, the Education Officer had informed the Secretary of the respondent no.4-Society *vide* communication dated 14.11.1998 that action would be taken against the management if the representation of the petitioner is not decided. It is submitted that despite the said communication dated 14.11.1998, the respondent nos.4 and 5 did not take any action for fixing the pay of the petitioner in the proper pay-scale and, therefore, the petitioner had filed the instant writ petition seeking the aforesaid direction.

On hearing the learned counsel for the parties and on a perusal of the documents annexed to the petition, it appears that the relief sought by the petitioner cannot be granted in the circumstances of the case. Firstly, if the petitioner was entitled to a higher pay-scale in the year 1984 and he was making representations for grant of the same and if the representations were not decided, the petitioner ought to have filed appropriate proceedings for seeking a direction to the respondents to either decide his representations or to fix the pay of the petitioner in the scale, as desired by him. If the petitioner was making representations since the year 1984 and the said representations were not decided, it was expected of the petitioner to have filed the petition in the year 1986-1987. The writ petition is filed in the year 2015. It is well settled that making of successive representations is inconsequential while considering sufficient cause. The successive representations would not stop the limitation. It would be

worthwhile to refer to the judgments of the Hon'ble Supreme Court, reported in **(1995) Supp. (4) SCC 593** (*Administrator of Union Territory of Daman and Diu and others Versus R.D. Valand*), **(1997) 11 SCC 13** (*Jai Dev Gupta Versus State of H.P. & Another*), **(2009) 3 SCC 281** (*Yunus (Baboobhai) A. Hamid Padvekar Vs. State of Maharashtra through its Secretary & Another*) and **(2006) 4 SCC 322** (*Karnataka Power Corporation Limited, through its Chairman & Managing Director & Another Versus K. Thangappan & Another*), in this regard.

Apart from the fact that the petition suffers from laches, there is an additional reason for rejecting the prayer made by the petitioner for fixing his pay in the scale of Rs.365-760 from 1984. Despite repeated queries to the counsel for the petitioner today as well as on the earlier date of hearing as to what is the basis for seeking the fixation of the pay of the petitioner in the scale of Rs.365-760, the learned counsel for the petitioner has not relied on the provisions of any Act, Rules, Regulations, Government Resolutions, Government Circulars, etc. in support of his claim. The learned counsel for the petitioner has only referred to the seniority list and the communication issued by the Education Officer to the secretary of the society, dated 14.11.1998 in support of his claim. The seniority list would not entitle the petitioner to the fixation of his pay in the scale of Rs.365-760 nor could the communication dated 14.11.1998 be of any assistance to the petitioner while seeking the fixation of the pay in the scale of Rs.365-760.

Since the relief sought by the petitioner cannot be granted in the circumstances of the case, the writ petition is dismissed with no order as to costs.

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