

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

C.A.W. NO.1346/2016
IN
WRIT PETITION NO.6919/2014

Vandana Bahuuddeshiya Shikshan Sanstha, Tumsar and another
 ..Vs..
 Presiding Officer, School Tribunal, Nagpur and others

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

Court's or Judge's orders

 Shri P.N. Shende, Advocate for the petitioners.
 Shri K.V. Bhoskar, Advocate for respondent No.2.
 Ms. S.Z. Haider, A.G.P. for respondent No.3.

CORAM : Z.A.HAQ, J.

DATE : 3.5.2017.

The respondent No.2 / employee has filed this application praying that the petitioners be directed to pay the difference of emoluments receivable by her. According to the respondent No.2 she was entitled to receive Rs.42,284/- per month for April and May, 2016, however she was paid Rs.33,376/- per month for April and May, 2016. The petitioners filed reply to this application sworn by the Secretary of petitioner No.1 - Society on 1st August, 2016 stating that the respondent No.2 was not co-operating and had not filed original documents to enable the school to take relevant entries in her service book for fixation of the emoluments. It is further stated in this reply that the respondent No.2 was receiving regular salary in the pay-scale as per 6th pay commission. The petitioners filed an additional affidavit of Secretary of the petitioner No.1 -

Society on 23rd February, 2017 stating that the fixation was done and the respondent No.2 is receiving Rs.42,000/- per month. The respondent No.2 filed counter affidavit on 1st March, 2017 stating that the attested photocopies of the documents required were supplied on 14th February, 2009 and to support this contention the copy of covering letter is placed on the record.

Looking to the nature of dispute, by order passed on 2nd March, 2017 the petitioners and the respondent No.2 were directed to deposit Rs.5,000/- each with the Registry of this Court and the Education Officer was directed to hear the parties and submit report pointing out the entitlement of the respondent No.2. The learned A.G.P. has placed on record the copy of report of Education Officer dated 29th April, 2017 and copies of it are also given to the Advocates for the petitioners and the respondent No.2. The Education Officer has recorded that the fault is of the respondent No.2 and the Headmistress of the school. The Education Officer has recorded that the respondent No.2 is receiving salary in the pay-scale as per 6th pay commission, however, without increments.

After hearing the learned Advocates for the respective parties and the learned A.G.P., I find that the petitioners had misrepresented by stating on oath that the respondent No.2 is receiving her regular salary as per 6th pay commission. It is noticed that whenever an

employee succeeds in a Court of law, the Management deprives the employee of his / her legitimate claim to show its supremacy and normally, the fixation is not properly done and increments are not given. It is high time that this attitude of Management should change.

The petitioners are directed to make available to the respondent No.2 the difference of emoluments after proper fixation and considering her entitlement for increments, within two months. The amount shall be paid to the respondent No.2 by the Management even if the amount is not disbursed by the Education Department. The petitioners may pursue their claim with the Education Department, however, the amount payable to the respondent No.2 shall be paid within two months.

As it is found by the Education Officer that both the parties are at fault, the amount of Rs.10,000/- (Rs. Ten Thousand Only) deposited by the petitioners and the respondent No.2 as per order passed on 2nd March, 2017 be given to the respondent No.3 - Education Officer (Secondary), Zilla Parishad, Bhandara.

The civil application is **allowed** in the above terms.

JUDGE