

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 198 OF 2017

Chavan Mangilal Goverdhan .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Sambhaji G. Munde, Advocate for the Petitioner.
Mrs. A. V. Gondhalekar, A.G.P. for Respondent Nos. 1 to 3.
Shri C. D. biradar, Advocate for Respondent Nos. 4 and 5.

**CORAM : S. V. GANGAPURWALA AND
SUNIL K. KOTWAL, JJ.**

DATE : 16TH JULY, 2018.

FINAL ORDER :

. The petitioner assails the order dated 21/22.11.2016 thereby declining to give the continuity and pay protection for the period the petitioner has rendered service as Hostel Superintendent in Ashram School from 01.07.1982 to 26.03.1989.

2. Mr. Munde, the learned counsel for the petitioner submits that, the petitioner has served as Hostel Superintendent of Ashram School from 01.07.1982 to 26.03.1989. With permission of the institution, the petitioner appeared for examination and was selected and thereafter appointed as Assistant Teacher with the Zilla Parishad School. His service rendered as Hostel

Superintendent with the Ashram school is not counted. The same deserves to be considered for the purpose of continuity and pay protection. According to the learned counsel the post of Hostel Superintendent and Assistant Teacher are on par with each other.

3. The learned counsel for the Zilla Parishad submits that, the petitioner was not working as Assistant Teacher with the Ashram School and was a Hostel Superintendent. The post was different and in view of that the service rendered as Hostel Superintendent of Ashram school cannot be considered for continuity. Moreover he had not taken permission of the competent authority while taking up subsequent recruitment, nor any permission was granted to the petitioner.

4. We have considered the submissions canvassed by the learned counsel for respective parties.

5. There does not appear to be dispute that the petitioner has rendered his service as a Hostel Superintendent of Ashram school for a period from 01.07.1982 to 26.03.1989. The petitioner has produced on record the document showing that Secretary of the institution where the petitioner was working had granted permission to him to appear for the examination of primary teacher and the petitioner had appeared. The service book of the petitioner also shows that the petitioner has been relieved by the

management on 26.03.1989 afternoon for the purpose of taking up his employment as an assistant teacher with the Zilla Parishad school. As such it is no gain saying that the petitioner has not appeared for the examination or taken up employment with the Zilla Parishad in an inappropriate manner. He has taken permission from the competent authority.

6. The post of the Hostel Superintendent and Assistant Teacher are inter-changeable as was affirmed by the State in an affidavit filed in Writ Petition No. 1491 of 2001 of which cognizance was taken by this Court in its judgment dated 17th July, 2014 in Writ Petition No. 5629 of 2013. It was held that the post of Hostel Superintendent and Assistant Teacher are inter-changeable. The pay scale is also same and it is also included in the teaching post.

7. In the light of the above, the impugned order is quashed and set aside. The respondents shall consider the service rendered by the petitioner as Hostel Superintendent of Ashram School from 01.07.1982 to 26.03.1989 for the purpose of continuity and pay protection. The writ petition is accordingly allowed. No costs.

[SUNIL K. KOTWAL, J.]

[S. V. GANGAPURWALA, J.]