

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.624 OF 2018

Pandit Khema Rathod,
Age-54 years, Occu:Service as
Hostel Superintendent,
Swami Vivekanand Primary Ashram
School, Asadwan, Waghala,
Tq. & Dist-Nanded.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
Social Justice and Special
Assistance Department,
Mantralaya, Mumbai,
- 2) The Principal Secretary,
The Finance Department,
Government of Maharashtra,
Mantralaya, Mumbai,
- 3) The Director,
Vimukt Jati Nomadic Tribes,
other Back ward Classes,
Special Backward Classes,
Welfare Directorate,
Maharashtra State, Pune,

- 4) The Assistant Commissioner,
Social Welfare Officer,
Nanded.

...RESPONDENTS

...
Mr.Anand V. Patil(Indrale) Advocate for Petitioner
Mrs.R.P. Gaur, A.G.P. for Respondent Nos.1 to 4
...

**CORAM: S.S. SHINDE AND
K.K. SONAWANE, JJ.**

DATE OF RESERVING JUDGMENT : 30TH NOVEMBER, 2018

DATE OF PRONOUNCING JUDGMENT: 17TH DECEMBER, 2018

JUDGMENT [PER S.S. SHINDE, J.] :

1. Rule. Rule made returnable forthwith and heard finally with the consent of the learned counsel appearing for the parties.

2. Learned counsel appearing for the Petitioner submits that the Petitioner possess requisite qualification for the post of Hostel Superintendent, and he came to be appointed as

Hostel Superintendent in Swami Vivekanand Primary Ashram School, Asadwan, Waghala, Dist-Nanded, on 1st July, 2004, in the pay-scale of Rs.4000-6000. It is submitted that some of the Hostel Superintendents working in Ashram Schools run by Social Welfare Department possessing the requisite qualification had filed Writ Petition No.1491 of 2001 (Sahebrao Karbhari Gunjal and others vs. the State of Maharashtra) (CORAM:S.B. DESHMUKH AND SHRIHARI P. DAVARE, JJ.), with a grievance that they were not paid the pay-scale admissible for similarly situated Hostel Superintendents working in Ashram Schools run by Tribal Development Department. In the said Writ Petition, this Court vide Judgment and order dated 4th November, 2009, held that all the Hostel Superintendents possessing the minimum requisite qualification of H.S.C., are entitled for similar pay-scale including the time bound higher pay-scale i.e. Rs.4500-7000. Pursuant to the aforesaid decision

in Writ Petition No.1491 of 2001, the Government of Maharashtra issued Circular dated dated 21st September, 2010, thereby granting pay-scale of Rs.4500-7000 as well as the time bound senior scale and selection grade to all Hostel Superintendents possessing the requisite qualification i.e. of H.S.C., B.Ed., B.P. Ed., etc. like pay-scale to the Hostel Superintendents possessing the qualification of H.S.C. D.Ed.

3. Learned counsel further submits that in view of the Judgment passed in Writ Petition No.1491 of 2001 and consequent Government Resolutions issued by the Government of Maharashtra, the Petitioner is entitled for the pay-scale as prescribed in Government Resolution dated 21st September, 2010, along with time bound senior scale and selection grade. It is submitted that the Petitioner is not receiving such pay-scale and time bound senior scale without there

being any legal and justifiable reason. Hence it is prayed that the Respondents be directed to grant pay-scale of Rs.4500-7000 to the Petitioner, for the post of Hostel Superintendent since from his initial date of appointment.

4. On the other hand, learned A.G.P. appearing for the State submits that in view of the educational qualification of the Petitioner, he has been rightly placed in the pay-scale of Rs.4000-6000, and therefore there is no merit in the Petition. Learned A.G.P. therefore submits that the Writ Petition is liable to be dismissed.

5. We have carefully considered the submissions of the learned counsel appearing for the respective parties. With their able assistance, we have perused the grounds taken in the Petition, annexures thereto, and the Judgment and order passed by this Court in Writ Petition

No.1491 of 2001 (Sahebrao Karbhari Gunjal and others vs. the State of Maharashtra).

6. In the Judgment delivered by this Court in Writ Petition No.1491 of 2001 (Sahebrao Karbhari Gunjal and others vs. the State of Maharashtra), (CORAM:S.B. DESHMUKH AND SHRIHARI P. DAVARE, JJ.), referred herein above, the issue in respect of higher pay-scale to the Hostel Superintendents working in the Ashram Schools is already considered. The Petitioners in the said Petition, who were similarly situated to the present Petitioner, after hearing the respondent authorities and considering the relevant Government Resolutions as well as the policy of the State Government, have been directed to be given the pay-scale equal to that of the Hostel Superintendents working under the Tribal Development Department.

7. Prima facie, the claim of the Petitioner for the pay-scale of Rs.4500-7000 appears to be sustainable. In that view of the matter, the Respondents are directed to consider the claim of the Petitioner, in the light of the law laid down by the Division Bench of this Court in the Judgment dated 4th November, 2009, in the case of Sahebrao Karbhari Gunjal and others vs. the State of Maharashtra and others, in Writ Petition No.1491 of 2001, and decide the same as expeditiously as possible and, in any case, within a period of three months from today. It is further made clear that if the Petitioner is found to be entitled to the payment of higher pay-scale, such payment shall be made applicable within a period of four weeks from the date of decision of the Respondents and the arrears, if any, shall be paid within a period of eight weeks from the date of decision.

8. So far as the claim of the Petitioner in respect of time bound promotional pay-scale is concerned, we direct the Petitioner to approach the appropriate authority with necessary representation seeking the said relief, within four weeks from today. The authority concerned shall decide the representation on its own merits and considering the relevant Government Resolutions as well as the policy of the Government, as expeditiously as possible, however in any case, within four months from the date of receipt of such representation.

9. Rule is made absolute in above terms. The Writ Petition stands disposed of, accordingly.

[K.K. SONAWANE, J.]

asb/DEC18

[S.S. SHINDE, J.]