

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

WRIT PETITION NO.1944 OF 2017

Vijay s/o Khushal Teli
Age 36 years, Occu. Service,
R/o At Post Sillod, Tq. Sillod,
District Aurangabad

... PETITIONER

VERSUS

1. The State of Maharashtra
through Secretary,
Social Justice and Special Help
Department, Maharashtra State,
Mumbai - 32
(Copy to be served on G.P.,
High Court of Bombay,
Bench at Aurangabad)
2. The Commissioner, Handicapped
Welfare, Maharashtra State, Pune
3. The District Social Welfare Officer,
Zilla Parishad, Aurangabad,
Tq. and District Aurangabad
4. Jogeshwari Niwasi Apang Prashikshan
Kendra (Technical School), Sillod,
Tq. Sillod, District Aurangabad
through its Headmaster/
Managing Superintendent

... RESPONDENTS

.....
Shri A.D. Pawar, Advocate for petitioner
Shri S.M. Ganachari, A.G.P. for State
.....

CORAM: PRASANNA B. VARALE AND
 MANISH PITALE, JJ.

DATED : 20th AUGUST, 2018.

ORAL JUDGMENT (PER PRASANNA B. VARALE, J.):

1. Rule. Rule made returnable forthwith and heard finally by consent of parties.

2. Heard learned counsel for the petitioner. The petitioner before us is with the prayers namely :

(B) The respondents be directed to pay the petitioner full salary of the post of Madatnis instead of granting it 50% as like the Madatnis working in workshop for handicapped school by issuing writ of mandamus or any other appropriate writ or directions as the case may be.

(C) To direct the respondents to pay the petitioner, the benefits of 6th Pay Commission in favour of petitioner as a Madatnis and also grant the benefits of higher pay scale after completion of

continuous 12 years service from the date of initial appointment as a Madatnis by issuing any other appropriate writ or direction as the case may be.

3. Learned counsel submitted that, the petitioner was appointed as a Madatnis in the respondent No.4 school by way of appointment order dated 1.7.2000. Our attention was invited to the copy of appointment order placed on record at Page 16. Perusal of the appointment order shows that the petitioner was appointed as Madatnis from the date i.e. 3.7.2000 for a period of one year i.e. till 2.7.2001 on a salary bracket of 750-940. It is stated in the appointment order that, appointment of the petitioner is purely temporary appointment for one year. Then, the counsel, by inviting our attention to the subsequent appointment order, submitted that the petitioner got the appointment order in the years 2001, 2002 and 2003. Though the order of 2003 is not placed on record, it is submitted by the learned counsel that the petitioner was appointed in the year 2003 also. The learned counsel then submitted that, the State Government passed Government Resolution dated 10.8.1990. The Government Resolution of 10.8.1990 was in respect of the staffing pattern as well as the salary grants being made available to the approved staff namely the teaching staff and non-teaching

staff in the Special School and the Associated Hostels attached to the Special schools. Our attention was also invited to the documents placed on record showing the staffing pattern available with the respondent No.4 school, wherein there is a reference of the post of Madatnis, the requisite qualification is 4th Standard Passed, and the salary bracket is 750-12-870-EB--14-940. The learned counsel then submitted that, in the year 2004, the State Government issued a fresh Government Resolution in respect of the staffing pattern. The learned counsel then submitted that, as per the subsequent policy of the State Government, the posts namely the Madatnis, Guard and Safai Kamgar are to be filled in by contractual method, and the salary for these posts was fixed at the rate of the basic salary plus 50% of the Dearness Allowance. Our attention was invited to the documents placed on record at Page 54 onwards, and at Page 57, there is a reference to the post of Madatnis. The learned counsel then submitted that, the petitioner is aggrieved by the subsequent policy of the State Government. It is the submission of the learned counsel that, as the petitioner is appointed in the year 2000, the State Government ought to have protected the salary bracket of the petitioner to which the petitioner was entitled in the year 2000 and ought not to have changed the petitioner's salary bracket from the bracket of salary of 750-940, on contractual appointment based emoluments. The learned

counsel then invited our attention to a representation submitted by the petitioner to the Commissioner. a copy of the said representation is placed on record at Page 40. It is stated in the representation that the respondent No.4 school is admitted to grants in the year 2003 and though the petitioner is entitled to receive the full salary as in the year 2000, the petitioner is now fixed in a bracket of contractual employee. Then the representation states the financial constraints of the petitioner.

4. Learned counsel then submitted that, as the petitioner is working with the respondent No.4 from the year 2000 and the respondent No.4 school is admitted to grants, the petitioner is entitled to receive the benefits of a permanent employee including the benefits of 6th Pay Commission as a Madatnis and further benefits of higher pay scale after completion of continuous 20 years service from the date of initial appointment as Madatnis. Though the learned counsel vehemently submitted for grant of the relief in terms of prayer clauses (B) and (C), we are unable to accept the submissions of the counsel. On the backdrop of the submissions of the counsel, and in view of the documents placed on record, we are of the opinion that the petitioner would be only entitled to receive the benefits as available to him in view of the policy of State Government operating the field from 2000 to 2003 under the

Government Resolution of 1990 and he is to be placed in the category of similarly circumstanced appointees from the year 2003 by and under the Government Resolution of the year 2004 i.e. Government Resolution dated 18.8.2004. As the petitioner had already approached the respondent No.2 raising his grievance and as it is submitted before us that there is no decision taken by the respondent No.2 on the representation, we direct the respondent No.2 to decide the representation considering our observations, as expeditiously as possible, and not later than eight weeks from the date of order of this Court.

5. Writ Petition is accordingly disposed of with above directions. Rule made absolute accordingly.

(MANISH PITALE)
JUDGE

(PRASANNA B. VARALE)
JUDGE

fmp/-