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IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

BENCH AT AURANGABAD

WRIT PETITION NO.2796 OF 2013

Nagendra Vishwantrao Dhondhipargekar
Age 40 years, Occu. Service,
R/o Dhondhiperga, Tq. Udgir,
District Latur

... PETITIONER

VERSUS

1. The State of Maharashtra
through its Secretary,
Department of Social Welfare,
Mantralaya, Mumbai
2. The Divisional Social Welfare Officer,
Latur Division, Latur.
3. District Social Welfare Officer,
Latur, District Latur.
4. Rambhau Mahalgi Primary Ashram
Shala, Wadhvana (Bk.), Tq. Udgir,
District Latur,
through its Head Master
5. Deonagari Bahuddeshiya Shikshan
Prasarak Mandal, Deoni,
Tq. Deoni, District Latur
through its Secretary

... RESPONDENTS

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Shri S.G. Rudrawar, Advocate for petitioner
Shri M.M. Nerlikar, A.G.P. for State
Shri N.P. Patil Jamalpurkar, Advocate for respondent No.5
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CORAM: T.V. NALAWADE AND
 SUNIL K. KOTWAL, JJ.

DATED : 23rd JANUARY, 2018.

ORAL JUDGMENT (PER T.V. NALAWADE, J.):

1. Rule. Rule made returnable forthwith. Heard both sides by consent for final disposal.

2. The petition is filed for giving directions, particularly to respondent Nos.4 and 5 to make the payment of salary to the petitioner in the pay scale of Rs.5500-9000 from 23.6.2003 till the date of petition.

3. The submissions made show that, appointment was given to the present petitioner, who is M.Com. B.Ed. in primary section of Ashram Shala run by respondent Nos.4 and 5. It is the contention of the petitioner that, nothing was paid to him though he continued to work as Assistant Teacher in the said school. It appears that, proposal was sent by respondent Nos.4 and 5 for approval, but it was rejected. It is the contention of the respondent Nos.4 and 5 that the proposal was rejected and the petitioner was removed from service. On the other hand, it is the case of petitioner that, even after rejection of the approval,

he continued to work as Assistant Teacher till the year 2013.

4. Only because there is order of appointment given by respondent Nos.4 and 5 showing that the petitioner was appointed in the pay-scale of Rs.5500-9000, this Court holds that, the respondents are liable to pay the salary to the petitioner in that scale. It is the contention of respondents that they were paying salary of Rs.3000/- or Rs.4000/- per month to the petitioner. Thus, the respondents have admitted that they never paid the salary to the petitioner in the aforesaid pay-scale. Learned counsel for respondent Nos.4 and 5 submitted that, the petitioner is now claiming the salary for the period starting from 2003 and in ordinary course, in civil law, he cannot claim recovery of the amount which is barred by law of limitation.

5. This Court holds that, the petitioner can claim the salary in aforesaid scale in respect of the period of three years which is preceding to the period of filing of the present proceedings i.e. preceding to 13.3.2013. That enquiry can be made by respondent No.3, the Social Welfare Officer and that amount can be recovered from the respondent Nos.4 and 5.

6. In the result, the petition is allowed. Respondent No.3 to make enquiry into the factual aspect to ascertain as to up

to which date the petitioner was in service and he was actually working in the school and then the amount be calculated for the period of three years preceding to the date of filing of this petition i.e. 13.3.2013. The respondent Nos.4 and 5 will be liable to pay that amount to the petitioner and if that amount is not paid, the respondent Nos.1 to 3 need to take appropriate action against respondent Nos.4 and 5. If the amount is not paid within one month from the date of calculation, the amount will carry interest @ 8% p.a. In those terms, rule is made absolute.

(SUNIL K. KOTWAL)
JUDGE

(T.V. NALAWADE)
JUDGE

fmp/