

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

925 WRIT PETITION NO. 9449 OF 2018

GUNWANT VENKATRAO MALISHE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr.Pawar Ajay D.
AGP for Respondents: Mr. S.B. Pulkundwar

...

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

DATE : AUGUST 14, 2018

O R D E R :

- . Heard.
2. Issue notice to the Respondents.
3. Learned Additional Government Pleader accepts notice for Respondent Nos.1 to 4.
4. Mr. Pawar, learned counsel for petitioner states that the petitioner is working as a hostel superintendent in the Ashram School since 14.6.1990. The pay scale given to the petitioner is that of an untrained hostel superintendent on the ground that the petitioner does not possess B. Ed. qualification. Learned counsel submits that in view of the Government

Resolution, dated 5.2.2000 decision has been taken to relax the condition of B. Ed. for hostel superintendent. Learned counsel submits that now H.S.C. is sufficient qualification for trained hostel superintendent. The qualification of the petitioner is H.S.C.

5. Learned counsel relies on the judgment of the Division Bench of this Court dated 21.9.2016 in Writ Petition No. 188 of 2016 and other Writ Petitions.

6. Ms. Bhagat, learned Assistant Government Pleader accepts notice for all the Respondents. Learned Assistant Government Pleader, on going through the judgment in Writ Petition No. 188 of 2016 affirms that the petitioner is similarly situated.

7. Considering the above, the petitioner would be entitled for salary of a trained hostel superintendent. The respondents shall treat the petitioner as trained hostel superintendent and pay salary accordingly. The difference in arrears shall also be paid expeditiously.

8. The learned counsel further submits that the petitioner is entitled for benefit of ACPS. According to the

learned counsel, the petitioner is covered by the judgment of this Court at Principal seat in W. P. No. 446 of 2015 decided on 15.6.2015. The learned Assistant Government Pleader on going through the said order affirms that the petitioner is similarly situated.

9. In light of the above, we pass the following order :

- (i) We declare that the benefit of ACPS, which is applicable to the employees of Group 'C' and 'D' nonteaching staff of the aided Private Schools in the State under the Government Resolution dated 30th April, 1998 as modified from time to time shall be available to the nonteaching staff of the same category in the private aided Ashram Schools ;
- (ii) The appropriate Authority appointed by the State Government shall examine the case of the members of the petitioner for deciding whether the satisfy the criteria laid down for availability of the benefit of ACPS to the private aided Government School under the Government Resolution dated 30th April, 1998 as modified from time to time;
- (iii) We make it clear that the petitioner will be entitled to the benefit of the said scheme, provided he satisfy the eligibility

criteria which is prescribed for the corresponding nonteaching staff of the private aided Schools;

(iv) We grant time of six months to the respondents to scrutinize the case of the petitioner and to consider whether he is eligible for the benefit of ACPS;

(v) If the petitioner is found eligible, the benefits shall be extended, as expeditiously as possible;

(vi) The writ petition is disposed of on above terms. No costs.

[SUNIL K.KOTWAL, J.]

[S.V.GANGAPURWALA, J.]

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