

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

WRIT PETITION NO.1846 OF 2013

Padmavati Sidheshwar Bhapse.

Petitioner.

Versus

The State of Maharashtra and others.

Respondents.

Mr. R.K. Temkar, Advocate for the petitioner.

Mr. S.B. Pulkundwar, A.G.P. for the State.

Mr. S.T. Shelke, Advocate for respondent No.4.

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

Dated : **9th July, 2018.**

FINAL ORDER :-

Mr. Temkar, learned Counsel for the petitioner submits that the petitioner had a qualification of B.Ed. at the time of initial appointment in the year 1997. The petitioner is working on B.Ed. Scale, however, is not paid salary as per B.Ed. Scale. On 04.07.2005 even approval was granted by the Education Officer to the appointment of the petitioner on B.Ed. Scale from 05.03.2005. Subsequent communications also depict that the Education Officer has consistently communicated with the Management that the

petitioner ought to be given benefit of B.Ed. Scale. However, the Management did not respond it. Even in the year 2012 the Education Officer made communication to the Management directing the Management to grant B.Ed. Scale to the petitioner. Learned Counsel submits that due to rival factions in the Management, the petitioner is not given the said benefit.

2. Mr. Shelke, learned Counsel appears for the Administrator of respondent No.4 and submits that at the relevant time there was dispute in the Management, however, the Administrator has granted benefit to the petitioner from 2014 and proposal was also to be sent to the Education Officer, but could not be sent. Learned Counsel submits that the petitioner has acquiesced with the order and non grant of benefit to him.

3. Learned A.G.P. submits that the Education Officer has granted approval to the petitioner in the B.Ed. Scale in 2005. In 2013 one post has become surplus in B.Ed. Scale and the Management was directed to transfer the petitioner to the Boys School.

4. It appears that again in the year 2014 the petitioner was awarded B.Ed. Scale by the Administrator, meaning thereby that the post was available.

5. Numerous documents on record clearly show that the appointment of the petitioner on B.Ed. Scale was approved way-back on 04.07.2005 by the Education Officer. In the year 2006, the same fact is also confirmed by the Education Officer. Subsequent correspondence also shows that Education Officer has time and again asked the Management not to discriminate against the petitioner and to provide benefit of B.Ed. Scale to the petitioner. As contended, it appears that there were rival factions in the Management and the petitioner was not given the said benefit. The petitioner all along was prosecuting the matter with the respondents for actual grant of the pay-scale though the approval is granted to the petitioner and the petitioner cannot be said to be at fault.

6. In light of the above, respondent No.3 Headmaster shall forward the salary bills of the petitioner in the B.Ed. Scale from the date of approval granted i.e. 04.07.2005 till date and shall forward the said proposal in respect of the regular monthly salary bills also till the date of retirement of the petitioner, within a period of six (06) weeks from today.

7. On receipt of the salary bills, the Education Officer shall process the same and sanction the difference in the amount of salary receivable by the petitioner till the date of her retirement. The same

shall be proceeded within a period of three (03) months from the date of receipt of proposal. Accordingly the pensionary benefits be also fixed and paid to the petitioner.

8. Rule is accordingly made absolute in the above terms.

No costs.

(SUNIL K. KOTWAL)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

vdd/