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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9792 OF 2016

Shri Prakash Hanumant Gidde .. Petitioner
Vs.
The State of Maharashtra & ors. .. Respondents

WITH
WRIT PETITION NO. 13818 OF 2017

Shri Hemant Shantaram Joshi .. Petitioner
Vs.
The State of Maharashtra & ors. .. Respondents

.....
Shri Y.B.Lengare I/b.Mrs S.Y. Lengare, Advocate for the
Petitioners in both the Petitions.
Shri B.V. Samant, AGP for Respondent Nos. 1 to 3 in both the
Petitions.

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CORAM : R.M. SAVANT, &
M.S. KARNIK, JJ.
DATE : 1st OCTOBER, 2018

P.C. :

Rule.

2. Having regard to the nature of the controversy
involved made returnable forthwith and heard.

3. Though various reliefs have been sought in the

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above Writ Petitions, the short controversy involved in the above Petitions is as to whether the Petitioners abovenamed are entitled for notional fixation of their salary, time bound promotion and pensionary benefits from the year when the strength of the students exceeded 1000.

4. The facts in the above Petitions disclose that both the Petitioners were appointed Part Time Librarians in the Schools run by the Respondent No.4 – Management i.e. Vatsaladevi Desai Girls High School, Atpadi, District - Sangli and Samaj Vikas Secondary and Higher Secondary School, Sagaon, Taluka – Shirala, District - Sangli. At the relevant time when the Petitioners joined the said Schools the strength of the students was below 1000. However, the chart annexed which is in Form 'B' indicates that the strength of the students increased above 1000 from the Academic year 1997-1998 and the same has continued thereafter. The Education Officer approved the appointments as Part Time Librarians in terms of the Government Resolution dated 28/6/1994, a Part Time Librarian

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can be upgraded as Full Time Librarian if the School satisfies the criteria for the same i.e. if total strength of the students becomes 1000 or above. The fact that the said criteria has been satisfied in the instant cases cannot be in dispute. However, the defence that is taken on behalf of the Education Department is that the Schools did not have a sanctioned post of Full Time Librarian. It is an undisputed position that both the Petitioners have been upgraded on 1/4/2006 and what the Petitioners are in fact seeking is the benefits from the year 1997-1998 and 1995-96 in the same terms as granted by the Division Bench of this Court sitting at Nagpur by order dated 20th January, 2016 passed in Writ Petition No. 1272 of 2015. The Division Bench in the said cases relied upon the order dated 28/1/2015 passed in clutch of Writ Petitions being No.6630 of 2013, 6631 of 2013 and 6481 of 2013. The Division Bench has observed that while passing the order dated 28/1/2015 had not given any arrears to the Petitioners and it was only for notional fixation of their salary, the increment to be directed to be notionally calculated. The Division Bench, therefore, adopted the same modality as in the

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said order dated 28/1/2015. The Division Bench accordingly directed that the notional increment shall be released in favour of the Petitioners so as to work out to salary payable as on 1/4/2006 on account of such notional release no arrears shall be payable to them. The notional arrears shall be valid only in the proposed pay fixation, Time Bound Promotion, pensionary benefits as per the rules.

5. Since the facts in the case of the above two Petitions can be said to be identical to the facts involved in the said Writ Petition No.1272 of 2015, we deem it appropriate to follow the same course of action as followed by the Division Bench sitting at Nagpur. We accordingly direct that the above Petitioners shall be given Full Time status in terms of the Government policy i.e. the Petitioner Prakash Gidde would be entitled to the said benefit from the academic year 1997-98 and the Petitioner Hemant Joshi from the academic year 1995-96. They would accordingly be entitled to the salary on the aforesaid basis with effect from 1/11/2018 without any arrears and Time Bound

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Promotion. They would also be entitled to the pension on the said basis. Since for pension the date when the Schools attained the figure of 1000 students is relevant the old pension scheme is accordingly applicable to the Petitioners, as the Petitioners have been held notionally entitled to pay fixation from the date when the School attained the strength of 1000 students i.e. from the academic year 1997-98 in case of Prakash Gidde and from the academic year 1995-1996 in case of Hemant Joshi.

6. The Writ Petitions are allowed to the aforesaid extent.

7. Rule is accordingly made absolute in the aforesaid terms with parties to bear their respective costs.

[M.S. KARNIK, J]

[R.M. SAVANT, J]