

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.5375/2016

Santosh S/o Tulshiram Bhurkade
..Vs..
The State of Maharashtra and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.D. Dangore, Advocate for petitioner.
Shri N.R. Patil, A.G.P. for respondent Nos.1 and 3.

CORAM : B.P. DHARMADHIKARI AND Z.A.HAQ, JJ.
DATED : 18.7.2018.

1. Petitioner recruited before 31.10.2005 as untrained Shikshan Sewak for period of 3 years has been made permanent as Assistant Teacher after obtaining D.Ed. qualification. Contention is as petitioner has joined before 31.10.2005, he is eligible to benefit of pension scheme then prevailing.

2. Learned A.G.P. has pointed out that in terms of Rule 6 of Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 such person could have been appointed only on year to year basis and hence at the most last one year during which petitioner may have obtained D.Ed. is relevant.

3. Petitioner has obtained D.Ed. in 2012 and thereafter he has been given approval on 8.3.2013 w.e.f. 2.1.2013. Thus, this approval also does not entitle petitioner to claim benefit of service put in prior to

13.1.2013. However, thereafter on 7.5.2015 Education Officer (Secondary) has revised approval and extended it from date 25.2.2008 onwards. It is subject to orders in Writ Petition No.341/2015.

4. As petitioner was not holding D.Ed. qualification, it is apparent that he was not holding post at all. His appointment after acquiring D.Ed. qualification and service rendered thereafter only is relevant.

5. We, therefore, find insistence on recognizing service prior to 31.10.2005 unsustainable. Petition is **dismissed**. No costs.

JUDGE

JUDGE