

IN THE HIGH COURT OF JUDICATURE AT BOMBAYNAGPUR BENCH : NAGPUR**WRIT PETITION NO. 5488 OF 2016.**

(Shri Sudhakar Bajirao Funde .vs. The Education Officer (Sec.), Z.P., Gondia & others)

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

Court's or Judge's orders

Mr. P.N. Shende, Advocate for petitioner,
Ms. T.H. Khan, A.G.P. for respondent no. 1.
Mr. C. Funde, Advocate for respondent no. 3.

CORAM : B.P. DHARMADHIKARI & MRS. SWAPNA S. JOSHI, JJ.

DATED : FEBRUARY 6, 2018.

1] Heard.

2] Petitioner though reinstated on 23.12.2015 after judgment of School Tribunal dated 9.7.2014 in his favour is not getting correct salary as that order has not been fully implemented. It is not in dispute that said order of School Tribunal has attained finality and has been maintained by Hon'ble Apex Court.

3] School Tribunal has directed reinstatement with continuity but without back wages. Education Officer has on 18.4.2016 issued a communication to employer stating that for period from the date of termination till reinstatement wages and increments of petitioner cannot be released. Because of this direction, employer has while undertaking exercise of fixation of salary on 1.7.2012 fixed petitioner in Pay Band of Rs.15,420/- with Grade Pay of Rs.4,300/- and then the said Grade Pay continues even till reinstatement with remark that increment has been stopped by employer.

4] The facts show that neither employer nor School Tribunal has stopped any increment. The petitioner should have been fixed by notionally releasing increments in his favour on 1.7.2013 and thereafter till his reinstatement. That exercise has not been done.

5] The communication issued by Education Officer on 18.4.2016 to the extent it holds increments not admissible to petitioner is unsustainable. That portion in it is, therefore, quashed and set aside. We direct the respondents to notionally release increments of petitioner for period from 1.7.2012 upto 23.12.2015 and to correct his fixation accordingly within next three months. Arrears becoming due and payable after 23.12.2015 till retirement on this count, shall also be released to him within next two months.

6] Acceptance of those arrears does not preclude petitioner from challenging correctness of exercise undertaken.

7] The Writ Petition is thus partly allowed and disposed of. No costs.

Judge

Judge

J.