

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

11 WRIT PETITION NO.5515 OF 2016

UMAKANT RAMLINGAPPA MALBHAGE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Ghute Patil Kishor J. And Mr.
M. P. Tripathi

AGP for Respondents State: Mr. S. K. Tambe
Advocate for Respondents 4 & 5: Mr. P. R.Tandale

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVAL, JJ.**

DATE : 25th February, 2019

PER COURT :

1. Mr. Ghute, the learned counsel for the petitioner submits that the petitioner ought to have been paid the scale of Graduate Primary School teacher from 10.12.1996. It was also notionally granted under order dated 04.02.2006, however, actual arrears are not paid to the petitioner. The petitioner is entitled for the same. Learned counsel further submits that the petitioner is entitled to the Secondary School Teachers' pay scale from the year 2008. The same has been sanctioned to the petitioner from the year 2014. It

is illegal. According to the learned Counsel, the petitioner was entitled to Secondary School Teachers' pay scale from 2008 and he was teaching to the Secondary School students. The said aspect ought to have been considered.

2. Mr.Tandale,the learned counsel for respondent No.4 submits that the petitioner had earlier filed two writ petitions. Though the petitioner was teaching to the secondary school students, he was paid special pay, initially Rs.125/- per month and thereafter Rs.500/- per month. The petitioner was actually given promotion from the post of Primary graduate Teacher to the post of Secondary school teacher and was given posting at Sakol, Taluka Shirur and since 2014 he is paid actual salary of secondary school teacher.

3. It appears that earlier the petitioner had filed writ petition No.1538/99. The same is decided on 04.09.2002. It was observed by the Court that the petitioner was working in the higher post but

for the higher post, he was paid special honorarium of Rs.250/- per month. The Court negatived the contention of the petitioner that he should be paid at the higher scale since the earlier date. Subsequently, the petitioner again filed a writ petition bearing No.1395/2008. The same was decided on 31.07.2008. In that matter also, the petitioner claimed pay scale of Assistant Teacher in the Secondary School. The Court observed in its order that appointment to the higher post can only be made if post is available, procedure of filling up post is followed and petitioner is eligible to apply, depending upon whether the post belongs to reserved or unserved category. The Court did not find merit in the petition.

4. In view of the above, case of the petitioner that he should be paid arrears from 1996 of Graduate primary teachers now cannot be considered. The petitioner is actually promoted in the year 2014 and is paid the pay scale of secondary

school teacher from that date. Considering the earlier orders passed, the grievance of the petitioner now cannot be considered. Writ petition is accordingly disposed of. No costs.

(A. M.DHAVALA, J.)

(S.V.GANGAPURWALA, J.)

JPC