

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
1020 WRIT PETITION NO.5017 OF 1999**

Anilkumar S/o. Murlidhar Bagdi ..PETITIONER

VERSUS

C.T.M.K. Gujrathi Vidyalaya,
(Primary), Jalna, Through & Ors. ..RESPONDENTS

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Mr. A. S. Deshpande and Mrs. Manjusha Deshpande,
Advocates for the Petitioner.

Mr. S. P. Tiwari, AGP for Respondents-State.

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**CORAM : S. V. GANGAPURWALA &
AVINASH G. GHAROTE, JJ.
DATED : 22nd NOVEMBER, 2019.**

PER COURT:-

1. The present petition is originally filed by the Anilkumar who was an employee of respondents. He was placed under suspension in August 1990 on account of criminal prosecution. The said Anilkumar is acquitted on 27.06.2001, as the same was prosecuted by the legal heirs.

2. The present petition is filed by Anilkumar for benefit of subsistence allowance. After the death of Anilkumar on 27.01.2001, the legal heirs of Anilkumar are prosecuting the present writ petition and the petition is amended with the prayers that the respondents be directed to make payment of salary of the husband of the petitioner from the date of his suspension till the death and thereafter, pay full pensionary benefits and family pension to the petitioner no.1-Legal Heir.

3. The affidavit is filed by respondent no.1 to the effect that the petitioners are paid with all the benefits as calculated by the Education Officer and an amount of Rs.5,09,179/- has been paid. The petitioner no.1 is also paid the family pension.

4. We do not have any record before us to conclude that the admissible amount of gratuity, provident fund and retiral benefit as admissible commensurate with the salary and its revision are paid. Neither the petitioners have any record of the same nor the respondents are in a position to clarify as to the manner in which the salary and the retiral benefits of the petitioner are calculated. It is stated by the Management that, as per the directions of the Education Officer, the management has paid the amount to the petitioner.

5. In absence of any authenticate record before us, it will not be possible for us to issue any directions with regard to the specified amount. The Deputy Director of Education would be the proper authority to consider all these aspects.

6. In the light of above, we pass following order:

ORDER

- i. The petitioners shall make an application with the Deputy Director of Education, Aurangabad with regard to the various claims.

- ii. The Deputy Director of Education shall consider about the payment of salary to the deceased husband of the petitioner during the period of suspension. The revision of the salary which the deceased husband of the petitioner was entitled to commensurate to the same retiral benefit that he would be entitled to. The management may produce the available record with it before the Deputy Director of Education.
 - iii. The parties shall appear before the Deputy Director of Education on 09.12.2019. The Deputy Director of Education shall after considering the record take decision as observed above preferably within a period of three months from the date of appearance of the parties before him.
 - iv. In case, the Deputy Director of Education directs payment of some more amount, then the parties shall follow the same and necessary steps shall be taken immediately.
7. In view of the above, writ petition is disposed of. Rule discharged.

(AVINASH G. GHAROTE)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/November-19