

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

104 WRIT PETITION NO.7432 OF 2018

ASHOKKUMAR RANGANATH THIKHE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Shinde Balaji S.
AGP for Respondents: P.K.Lakhotia
Adv.V.S.Bedre for R.3 and 4.

**CORAM : S.V.GANGAPURWALA &
MANGESH S. PATIL, JJ.**

DATE : 18/06/2019

PER COURT :

Mr.Shinde, learned advocate for the petitioner submits that the petitioner is appointed in the year 1999. The petitioner on the date of appointment was possessing qualification of B.A.B.Ed. The petitioner was entitled for the pay scale of the trained graduate teacher, however is given the pay scale of D.Ed. According to the learned advocate respondent no.5 is junior to the petitioner. If there is one post available for trained graduate teacher, then the petitioner is entitled for the same in accordance with seniority.

2] Mr.Bedre, learned advocate for respondents 3 and 4 submits that petitioner at the time of appointment has executed bond and has agreed to work on D.Ed. Scale. No grievance was made by the petitioner for all those years.

3] We also heard learned AGP.

4] It is a fact that the petitioner never raised objection to the B.Ed. Scale granted to respondent no.5 since the date of appointment. Even if we accept the case of the petitioner that the petitioner was terminated in the year 2001 and then the appeal was required to be filed and thereafter reinstated in 2008 still, petitioner never raised any objection to the B.Ed. Scale granted to respondent no.5 so also did not raise any objection to the D.Ed. Scale granted to the petitioner.

4] It would not be appropriate to unsettle the position which is prevalent for last more than 8 years.

5] It has been observed by the Education Officer in his order that whenever post for trained graduate teacher is available the case of the petitioner shall be considered on priority basis.

6] Mr.Shinde, learned advocate submits that one post for trained graduate teacher's pay scale is now vacant. Naturally as per order of the Education Officer the petitioner will be required to be considered on the vacant post of trained graduate pay scale.

7] In the result, we pass the following order :

In case the post for trained graduate pay scale is vacant, the case of the petitioner shall be considered for trained graduate pay scale from the date the post for trained graduate pay scale has become available. The proposal to that effect shall be forwarded by the management to the Education Officer within a period of 6 weeks from today.

8] Writ Petition is disposed of. No costs.

(MANGESH S. PATIL,J.)

(S.V.GANGAPURWALA,J.)

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