

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8539 OF 2018

PRAKSH NARSINGRAO BORSURIKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner :
Mr. R. I. Wakade h/f. Mr. Patale Amol N.
AGP for Respondents No. 1 & 2 : Mr. S. B. Yawalkar
Advocate for Respondents No. 3 & 4 :
Mr. S. S. Rathi

...

CORAM: S. V. GANGAPURWALA &
MANGESH S. PATIL, J.

DATE: 05th AUGUST, 2019

PER COURT:

1. Mr. Wakade, learned counsel for the petitioner submits that the petitioner is possessing qualification of B.Ed. since initial date of appointment i.e. 03.10.1998. The petitioner is paid D.Ed. scale up to 31.08.2003. One surplus candidate was directed to be absorbed with the respondent institution in the year 2000 on B.Ed. scale. The learned counsel submits that the said person is repatriated in the year 2003 and since then the petitioner is brought on B.Ed.

scale. From day one of his service the petitioner is entitled for B.Ed. scale. The management subsequently had granted the benefits to the petitioner of B.Ed. scale from the initial date of appointment i.e. 03.10.1998, but the Education Officer is not considering the request of the petitioner.

2. The learned A.G.P. submits that the petitioner is appointed on B.Ed. scale with effect from 24.09.2003. The approval is granted to the same from 01.09.2003 to the petitioner. The petitioner was appointed on 03.10.1998 on the post meant for D.Ed. The petitioner has accepted the same and also filed undertaking to that effect. Now the petitioner cannot turn around and contend otherwise.

3. The fact that the petitioner was appointed on D.Ed. scale on 03.10.1998 is not disputed. The petitioner is brought on B.Ed. scale from 24.09.2003 is also not disputed. The only claim of the petitioner for B.Ed. scale is from 03.10.1998

till 24.09.2003

4. During the relevant time one candidate of B.Ed. scale declared surplus was directed to be absorbed in respondent school and he was so absorbed. The State cannot pay the salary of B.Ed. scale to two Assistant Teachers at one and the same time and for one post. Moreover, at the time of appointment, the petitioner also appears to have been given undertaking that he is appointed on D.Ed. scale. After the surplus candidate absorbed with respondent school is repatriated, the petitioner is paid the B.Ed. scale from the said date.

5. Considering all the aforesaid conspectus, it would not be possible to accept the contention of the petitioner.

6. Writ Petition, as such, is disposed of. No costs.

[MANGESH S. PATIL, J.]
marathe

[S. V. GANGAPURWALA, J.]