

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

WRIT PETITION NO. 15222 OF 2017

- ...PETITIONERS**
1. Eknath S/o. Janaba Jaybhay,
Age-77 years, Occu-Retired,
R/o. Fakrabad, Tq. Jamkhed,
Dist. Ahmednagar
 2. Sundar S/o. Deorao Raut,
Age-75 years, Occu-Retired,
R/o. Fakrabad, Tq. Jamkhed,
Dist. Ahmednagar
 3. Kashinath S/o. Vishwanath Kharade,
Age-87 years, Occu-Retired,
R/o. Kumbhargalli, Jamkhed,
Tq. Jamkhed, Dist. Ahmednagar
 4. Dattatray Hari Kulkarni died through his son
Umesh Dattatray Kulkarni,
Age-50 years, Occu-Agril,
R/o. Godown Galli, Jamkhed,
Tq. Jamkhed, Dist. Ahmednagar
 5. Shaikh Shamshuddin Fakruddin Died through his wife
Shaikh Kaiser Begum Shamshuddin
Age-75 years, Occu- Household,
R/o. Telephone Road, Jamkhed,
Tq. Jamkhed, Dist. Ahmednagar
 6. Vithal S/o. Dagadu Potdar,
Age- 75 years, Occu-Retired,
R/o. Near Old State Bank, Jamkhed,
Tq. Jamkhed, Dist. Ahmednagar,
 7. Kamal Vishwanath Raut
Age- 77 years, Occu-Retired,
R/o. Kumbhargalli, Jamkhed,

Tq. Jamkhed, Dist. Ahmednagar

8. Maroti S/o. Genaba Dhawale,
Age- 73 years, Occu-Retired,
R/o. Halgaon, Tq. Jamkhed,
Dist. Ahmednagar
9. Tukaram S/o. Bansi Nirmal,
Age- 77 years, Occu- Retired,
R/o. Arangaon, Tq. Jamkhed,
Dist. Ahmednagar
10. Natha S/o. Bhau Deokar,
Age- 73 years, Occu-Retired,
R/o. Bavi, Tq. Jamkhed,
Dist. Ahmednagar

VERSUS

1. The State of Maharashtra,
Through the Secretary, Primary Education
Government of Maharashtra
at Mantralaya Mumbai-32 **...RESPONDENTS**
2. The Deputy Director Education
Pune Region, Pune
3. The Education Officer [Primary],
Ahmednagar Zilla Parishad, Ahmednagar
4. The Chief Executive Officer,
Zilla Parishad, Ahmednagar,
Dist. Ahmednagar

Mr.Mahesh R. Sonwane, Advocate for the petitioners
Mr.Amol A. Kokad, Advocate h/f Mr.K.U.More, Advocate for
respondent No.4
Mr.A.V.Deshmukh, AGP for the respondent/State

**CORAM : SUNIL P. DESHMUKH &
S.M. GAVHANE, JJ.**

DATE : 18.07.2019

ORAL JUDGMENT [PER: SUNIL P. DESHMUKH, J.]

. Rule. Rule made returnable forthwith. Heard learned counsel for the parties by consent.

2. The petitioners who are primary teachers working with the respondents are claiming benefits of senior grade/selection grade with reference to various government resolutions issued from time to time particularly the ones dated 04-04-1990, 15-11-2006, 18-06-2008 and letters dated 01-06-2011, 15-11-2007, 01-07-2009 and 27-01-2012.

3. The petitioners claim that them and their association had submitted representations requesting for monetary benefits of senior grade / selection grade . However, no positive response had been given . In the circumstances, some of the primary teachers had approached this court under writ petition No. 4685 of 2012 and the high court under its order dated 08-10-2013 allowed the writ petition directing respondents to grant benefits of selection grade from 13-08-1988 and 27-07-1991 respectively and to pay pecuniary benefits and arrears arising therefrom and even the respondents have complied with said directions. This order has also been followed by various division benches subsequently.

4. Yet, while petitioners have approached for extending

similar benefits, when undisputedly petitioners have completed 18 years of service as on 01-01-1986 and as such stand relieved from criterion of acquisition of higher qualifications and being eligible for grant of selection grade on completion of 24 years of service as can be gathered from aforesaid government circulars and decisions, those were not coming their way.

5. Learned counsel draws our attention to order dated 26-04-2017 in writ petition No. 3105 of 2017 and order dated 08-10-2013 in writ petition No. 4685 of 2012. He particularly draws our attention to paragraphs No.20 and 21 in writ petition No. 4685 of 2012, reading, thus:

20. We are not in the least enamoured by the defence taken by respondents in their affidavit in reply. Perusal of the Government decisions and communications issued from time to time makes it abundantly clear that such teachers who have completed 18 years or more as on 01-01-1986, have been relieved from acquiring higher qualifications and such primary teachers, who complete 24 years qualifying service, from that day onwards would be entitled to Senior / Selection Grade. We would also like to take note of the fact that decisions have repeatedly referred to that the teachers who have not completed 18 years qualifying service as on 01-01-1986, are not entitled to such concession in higher qualifications. The factual matrix shows that the petitioners have completed more than 18 years of service as on 01-01-1986, and as such stand relieved from acquisition of requisite educational qualifications and as such are eligible to

grant of selection grade thereafter on completion of 24 years of service as can be gathered from aforesaid extracts.

21. As clarified in Government Circular dated 18th June, 2008, referred to hereinabove, the petitioners having completed 24 years of service after 01-01-1986, would be eligible for consideration of grant of selection/ senior grade with effect from the dates of completion of 24 years service, by respective petitioners i.e. from 13-08-1988 and 27-07-1991 respectively.

6. In the face of clear decisions and communications by the State Government issued from time to time inaction on the part of respondents, is unsustainable and as such situation shall give way to the benefits to which petitioners are legitimately entitled and which are due to them, flowing from the decisions of the Government.

7. In the circumstances, we deem it appropriate to direct the respondents to consider the petitioners' case. As such following order is passed:

ORDER

Respondents shall consider the petitioners' case for grant of senior/selection grade after satisfying themselves about the petitioners being eligible pursuant to order dated 08-10-2013 in writ petition No. 4685 of 2012 and shall grant them pecuniary benefits and

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arrears arising therefrom as early as possible,
preferably within a period of six months.

Rule is made absolute as aforesaid. Petition
is disposed of accordingly.

[S.M. GAVHANE, J.]

[SUNIL P. DESHMUKH, J.]