

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8990 OF 2018

Shaikh A. Munaf Mohammad Hussain ...Petitioner

Versus

The State of Maharashtra and Ors. ...Respondents

Mr. A.D. Shinde, Advocate for Petitioner
Mr. K.B. Jadhavar, Assisant Government Pleader for
Respondents/State

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

DATE : 18th FEBRUARY, 2019

ORAL ORDER:

1. We have heard Mr. Shinde, the learned Counsel for the petitioner and the learned Assistant Government Pleader.
2. The petitioner is appointed on 19.08.2003 as a Shikshan Sevak for the period of three years and thereafter, as an Assistant Teacher. The approval is granted to the appointment of petitioner as Shikshan Sevak from 2003 to 19.08.2006 and from 20th August, 2006 as an Assistant Teacher. The order of approval is explicitly clear.
3. According to the petitioner, though the petitioner is approved as an Assistant Teacher on 20th August, 2006, the salary is paid to the petitioner as a full time Assistant Teacher from

31.07.2009 and not from 20th August, 2006. The learned Counsel submits that the reliance on the Government Resolution dated 31st July, 2009 is misplaced.

4. The appointment of the petitioner is already approved upto 19.08.2006 as a Shikshan Sevak and from 20th August, 2006 as as an Assistant Teacher. In light of that, the Government Resolution dated 08.10.2009 could not have been applied. The salary to the petitioner could not have been admissible from April, 2009, but from the earlier date i.e. 20th August, 2006 and till 19.08.2006 as a Shikshan Sevak.

5. However, though we hold that the petitioner ought to have been paid salary as an Assistant Teacher from 20th August, 2006, we are not inclined to grant actual monetary benefits to the petitioner for the period 20th August, 2006 to 8th October, 2009 as the petitioner has approached this Court after long delay. However, the said period shall be counted for the purpose of notional pay fixation and the petitioner shall be given benefit of increments as would be admissible to him.

6. The petitioner shall be paid difference of the salary that would be arrived at by considering notionally the pay fixation as an Assistant Teacher from 20th August, 2006 for the period of three years prior to the filing of the Writ Petition i.e. from 1st August, 2015

and further pay fixation be done accordingly.

7. The Writ Petition is accordingly disposed of. No costs.

[A. M. DHAVAL]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

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