

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

WRIT PETITION NO. 8908 OF 2018

Vaijinath s/o Madhavrao Kamble
and Ors.

...Petitioners

Versus

The State of Maharashtra and Ors.

...Respondents

Mr. V.V. Deshmukh, Advocate for Petitioners
Mr. S.M. Ganachari, Assistant Government Pleader for
Respondent Nos. 1 and 2
Mr. P.R. Tandale, Advocate for Respondent Nos. 3, 4

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

DATE: 23rd JANUARY, 2019

ORAL ORDER :

1. Mr Deshmukh, the learned Counsel for the petitioners submits that the petitioners had joined as Assistant Teachers prior to 1972. In view of the Government Resolution dated 04.10.1983, they are deemed trained teachers as they possess SSC qualification. The pay scale is required to be granted to them as a deemed trained teacher. According to the learned Counsel, the said issue is no longer res integra in view of various Judgments of this Court. The learned Counsel makes reference to the Judgment of this Court dated 13th February, 2014 in writ petition No. 1311 of 1997 with connected writ petitions and Judgment dated 24.04.2015 in writ petition No. 204 of 2015.

2. According to the learned Counsel, it was the obligation on the part of the respondents to pay the amount for non-performance of their obligation, the petitioners cannot be denied their right only on the ground of delay.

3. Mr. Tandale, the learned Counsel for the Zilla Parishad submits that the petitioners have approached this Court after a long time on the ground of laches, the petition may not be entertained.

4. The petitioners on attaining the age of superannuation have retired in between the years 2001 to 2008. The petitioners seek benefits of the Government Resolution dated 01.04.1983 to treat them as deemed trained teacher and to award the pay scale of Rs.1200-2040 from 01.01.1986 and Rs. 4500-7000 from 01.04.1996 with interest. The petitioners approached this Court after a long slumber. No doubt, this Court has earlier taken a view that such persons can be considered, who have joined prior to 1972 and possessing SSC qualification are to be treated as deemed trained teachers. However, considering that the petitioners have approached this Court after a long slumber, we may consider the case of the petitioners for grant of pensionary benefits in accordance with the pay scale of a deemed trained teacher. However, we are not inclined to grant actual benefit of the salary to the petitioners for the

past period.

5. The respondents shall calculate the pension of the petitioners and the pensionary benefits as per the pay scale applicable to the trained teacher i.e. Rs.1200-2040 from 01.01.1986 and Rs. 4500-7000 from 01.04.1996 notionally.

6. The difference in the arrears of pension and the pensionary benefits shall be paid to the petitioners within a period of four months from today and shall pay the future pension considering these petitioners to be deemed trained teachers.

7. The respondents shall fix the pay of the petitioners as on the date of retirement considering them to be deemed trained teachers.

8. The writ petition is disposed of. No costs.

(A.M. DHAVAL, J.)

(S.V. GANGAPURWALA, J.)

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