

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

WRIT PETITION NO.1680 OF 2019

**RAGHUNATH MADHAVRAO AALGULE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr.Laxman H. Kawale, Advocate for the petitioners
Mr.V.S.Badakh, AGP for the respondents/State
Mr.D.S.Mali, Advocate for respondent No.3 in respective
petitions

**WITH
WRIT PETITION NO.1682 OF 2019**

**VENKAT MADHAVRAO BHOSLE DIED THROUGH LRS
VS
STATE OF MAHARASHTRA AND OTHERS**

Mr.Laxman H. Kawale, Advocate for the petitioners
Mrs.M.S.Deshpande, AGP for the respondents/State

**WITH
WRIT PETITION NO.2825 OF 2019**

**GULAB DAJIBA KAMBLE
VS
THE STATE OF MAHARASHTRA**

Mr.Laxman H. Kawale, Advocate for the petitioners
Mr.S.S.Dande, AGP for the respondents/State

**WITH
WRIT PETITION NO.1675 OF 2019**

**MUKUND DWEARKADAS TOSHNIWAL
VS**

THE STATE OF MAHARASHTRA AND OTHERS
Mr.Laxman H. Kawale, Advocate for the petitioners
Mrs.M.A.Deshpande, AGP for the respondents/State

WITH
WRIT PETITION NO.1983 OF 2019

SHIVAJI CHOKHOBA SURYAWANSHI AND OTHERS
VS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.Laxman H. Kawale, Advocate for the petitioners
Mr.S.S.Dande, AGP for the respondents/State

WITH
WRIT PETITION NO.2822 OF 2019

MANIK NAMDEORAO GAWALI AND OTHERS
VS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.Laxman H. Kawale, Advocate for the petitioners
Mr.V.S.Badakh, AGP for the respondents/State

WITH
WRIT PETITION NO.2823 OF 2019

DATTARAM RAMBHAU UBALE
VS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.Laxman H. Kawale, Advocate for the petitioners
Mrs.M.A.Deshpande, AGP for the respondents/State

WITH
WRIT PETITION NO.2824 OF 2019

VIRNATH KARBASPPA BIDVE AND OTHERS

VS

THE STATE OF MAHARASHTRA AND OTHERS

Mr.Laxman H. Kawale, Advocate for the petitioners
Mr.A.R.Kale, AGP for the respondents/State

**CORAM : PRASANNA B. VARALE &
S.M.GAVHANE, JJ.**

DATED : 26.02.2019

P.C. :-

. Heard learned counsel for the petitioners.

2. The petitioners before this Court are in their advance age ranging in between 60 years to 70 years respectively and approaching this Court for claiming certain benefits on the basis of the orders of this Court. Submission of the counsel is issue raised in the petitions by the petitioners is no more *res integra*.

3. Considering this very fact we are of the opinion that the petitions can be disposed of at the admission stage.

4. Certain facts which may be necessary to decide and dispose the petitions, are stated briefly as follows:

5. The petitioners after completing their education up to SSC were appointed as assistant teacher in

respondent/school imparting the primary education. The petitioners were appointed on fixed salary (with dearness allowance) and other benefits available to these petitioners from time to time before the year 1972. These petitioners though were selected for training in PTC college due to certain financial difficulty were unable to complete the training. There was disparity in the payscale. The State of Maharashtra issued Government Resolution dated 04.10.1983 and declared that primary teachers who were appointed prior to 1972 and have worked continuously but not having D.Ed. qualification all such un-trained teachers would be considered as trained teachers and they would be entitled for the benefits of trained teachers. The petitioners are claiming the benefits taking recourse to the Government Resolution as well as certain clauses of the MEPC Rules, 1981 more particularly clause 4-E of Schedule-C of the MEPC Rules.

6. In the similar circumstances some teachers have approached this Court by filing writ petitions and in the bunch of petitions namely WP/1311/1997 and other writ petitions the Division Bench of this Court by order dated 13.02.2014 was pleased to consider the issue. The contentions raised by the petitioners were opposed by the Zilla Parishad who was party respondent to the petition.

Considering the rival submission the Division Bench of this Court was pleased to observe in paragraph 6 as under:-

“6. Thus, petitioners who are appointed prior to July 1972 and holding SSC qualification are declared as deemed trained teachers and are entitled to draw initial salary in the pay band of Rs.1200-2040 since 1986 and in the pay band of Rs.4500-7000 since 1996 onwards. Respondents are therefore directed to release monetary benefits in accordance with the determination as above. Respondents shall disburse monetary benefits receivable by each of the petitioner, as expeditiously as possible, preferably within a period of six months from today. Rule made absolute in above terms. In the facts and circumstances of the case, there shall be no order as to costs.”

7. Similar issue again came for consideration before the Division Bench in other bunch of petitions namely writ petition No.9015/2014 and other writ petitions. The copy of the order of the Division Bench of this court dated 07.11.2014 is placed on record. The Division Bench of this Court in clear and unambiguous words observed that the aspect of the matter as agitated in the present petition is no more *res integra* in view of the judgment in writ petition No.1311/1997 and other

connected petitions. The Division Bench observed that respondent Nos. 3 and 4 on confirming itself about the dates of appointment and if it is satisfied that the petitioners are appointed prior to 02/07/1972 then respondents shall accord benefit of trained primary teachers payscale to the petitioners as per the Government Resolution dated 04.10.1983 i.e. pay band of Rs. 1200-2040 since 1986 and in the pay band of Rs.4500-7000 since 1996 onwards. Then the Division Bench further observed that in case respondent No.3 and 4 comes to the conclusion that the petitioners are entitled the same benefits shall be paid expeditiously within stipulation of period.

8. Issue notice to the respondents, returnable forthwith. Learned AGP waives service of notice for respondents/State and Mr.D.S.Mali, Advocate waives service of notice for respondent No.3 Education Officer (Primary) Zilla Prishad, Latur and admit that the issue was for consideration before this Court in the bunch of petitions i.e. writ petition No.1311/1997 as well Writ petition No.9015/2014 and the respective orders are passed by the Division Bench on 13.02.2014 as well 07.11.2014.

9. Considering this fact we see no reason to take different view than the view adopted by the Division Benches in the order dated 13.02.2014 and 07.11.2014. Accordingly, we state that respondent Nos.2 and 3 i.e. Deputy Director of Education and Education Officer (Primary), Zilla Parishad, Latur on confirming itself about the dates of appointment of the petitioners and if it is satisfied the petitioners are appointed prior to 1972 then respondents shall accord the benefits of trained primary teachers payscale to the petitioners as per Government Resolution dated 04.10.1983 i.e. pay band of Rs.1200-2040 since 1986 and in the pay band of Rs.4500-7000 since 1996 onwards. In case, it comes to the conclusion that the petitioners are entitled, the same benefits shall be paid expeditiously and preferably within six months from today.

10. With the above directions, the writ petitions are disposed of.

[S.M.GAVHANE, J.]

[PRASANNA B. VARALE, J.]