

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.14798 OF 2017

Kailas S/o Ramchandra Patil
Age: 56 years, occupation: service as Teacher,
R/o Shankarappa Colony,
Pumping Road, Pachora,
Tq. Pachora, Dist. Jalgaon.

Petitioner

versus

1. The State of Maharashtra
through its Principal Secretary,
School Education Department,
Mantralaya, Mumbai 32

2. The Deputy Director of Education
Nasik Division, Nasik

3. Education Officer (Secondary),
Zilla Parishad, Jalgaon

4. Pachora Taluka Co-operative Society Ltd.,
Pachora, Dist. Jalgaon
Through it's Secretary

5. The Principal,
Seth Murlidharji Mansingka Arts,
Science & Commerce College,
Pachora, Tq. Pachora
Dist. Jalna

Respondents.

Mr. R.D. Biradar advocate for petitioner
Mr. G.O. Wattamwar, Assistant Govt. pleader for State
Mr. U.L. Monale advocate for respondents No.4 and 5.

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CORAM : **SUNIL P. DESHMUKH & SMT. VIBHA KANKANWADI, JJ.**

Date: November 6th, 2019

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ORAL JUDGMENT: (Per: **SUNIL P. DESHMUKH, J**)

1 Rule. Rule made returnable forthwith. By consent, heard
learned counsel appearing for the parties finally.

2 The petitioner claims grant of pay scale of Rs.2000 – 3500 as a trained teacher with effect from the date of appointment which is 30-06-1989 substituting pay scale of Rs.1400 – 2600 + 125 as untrained teacher.

3 Learned counsel for the petitioner states that while the petitioner had been appointed as a teacher in junior college, he was already possessing master's degree in Arts with bachelor's degree in physical education. (B.P.Ed). With B.P.Ed. training qualification, he ought not to have been considered as untrained teacher. He further refers to that subsequently from 1996, petitioner has been granted proper pay scale as a trained teacher in junior college. He further submits that while representations were being made for grant of proper pay scale as a trained teacher from 1993 to 2017, before his retirement, those were not attended or responded to.

4 In response, learned assistant government Pleader refers to that while petitioner was appointed, he was M.A., B.P.Ed. On his own saying, petitioner is a teacher in history. However, qualification as trained teacher for history in accordance with Schedule 'B' of MEPS rules, 1981 is masters degree of any statutory university in second class in respective subject plus B.Ed. or diploma or certificate in teaching approved by the department. Moreover, learned assistant government pleader

refers to that the petitioner was appointed on 'clock hour' basis in 1989 since requisite work-load was not available. Learned counsel for the petitioner has also admitted that for few months the petitioner was appointed on 'clock hour' basis since work-load was not available and subsequently the same being available, he ought to have been given proper pay scale.

5 Thus, the position emerges, though the appointment order depicts it was a full time teacher's appointment, yet the contentions on behalf of respondent Director of Education that after such appointment order, the petitioner was working on clock hour basis while the petitioner accepts that there had been no proper work-load for some time and petitioner had been working on 'clock hour' basis to claim benefit of trained teachers scale from date of appointment while no material is produced in respect of availability of adequate work-load and cessation of working on clock hour basis at this fag end of the career, the petitioner is making grievance. Apart from aforesaid, learned assistant government pleader purports to point out that for a history teacher, even bachelor in education degree is to be obtained by undertaking history method. Such qualification petitioner had been acquired subsequently after 1995 and after obtaining such qualification petitioner has been receiving the pay scale of a trained teacher. With inadequate evidence, disputed facts and due to laches on the part of petitioner, we decline to

alter the on-going position and petition, therefore, is not entertained and is disposed of.

6 Rule discharged.

(SMT. VIBHA KANKANWADI, J)

(SUNIL P. DESHMUKH, J)

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