

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION*

WRIT PETITION NO. 8307 OF 2013.

Mr.Pawar Vilas Nattu .. Petitioner
Vs
State of Maharashtra and others .. Respondents

Mr.R.B.Deshmukh, for the Petitioner.

Mr.M.M.Pabale – Additional Government Pleader, for Respondent
Nos.1 to 4.

Mr.Amit Sale, for Respondent No.5.

***CORAM : PRADEEP NANDRAJOG, C.J. &
N.M.JAMDAR, J.***

Date : 6 June, 2019.

P.C. :

1. The Petitioner, an assistant teacher in the school managed by Respondent No.5, seeks pay-scale admissible to a teacher with a B.Ed degree.

2. The Petitioner was appointed on 15 June 1998 in the Secondary School and Junior College run by the Respondent No.5-

Institute. At the time of appointment the Petitioner possessed B.A. and B.Ed degrees. The Education Officer, Zilla Parishad initially approved the appointment on yearly basis, and on 14 June 2000 granted approval on permanent basis. The Petitioner at the time of his appointment was paid a pay-scale applicable to an assistant teacher having D.Ed qualification for the reason there was no post available in the B.Ed. scale. Vacancy was in a post having D.Ed. scale. The Petitioner continued to get the payscale in D.Ed scale of ₹ 4500-7000/-.

3. The Petitioner's grievance was that since he holds a B.Ed degree he should get the pay-scale of B.Ed teacher, that is ₹ 9300-34800/-. The Petitioner approached the Education Officer for that purpose. The Education Officer wrote letters on 20 October 2012 and 16 November 2012 to the Respondent No.5 directing that the Petitioner be placed in the B.Ed pay-scale. Nothing further progressed in favour of the Petitioner. The Petitioner then filed the present Petition. Reply is filed by the Respondent No.5. Respondent No.5 opposes the relief sought for by the Petitioner. No reply is filed by the Education Officer.

4. It is not for the Respondent No.5 to dispute the entitlement of the Petitioner to be placed in B.Ed pay-scale. Respondent No.5 is an aided Institute and is bound by the directions issued by the Education Officer. If at all there was any serious grievance regarding these directions, the Respondent No.5 could

have, if permissible, challenged the same. This has not been done. The entitlement of the Petitioner is thus established.

5. However one facet we have to take note of. The orders were passed by the Education Officer in the year 2012. There was a dispute at the bar regarding availability of the vacancies as on today. It is possible that the vacancy position has undergone a change in last seven years. Therefore, it will be appropriate that the Education Officer examines the position as regards vacancies and place the Petitioner in B.Ed pay-scale accordingly.

6. The Petition is disposed of declaring that the Petitioner is entitled to be paid as a teacher in the B.Ed pay-scale. The Education Officer will carry out the exercise of ascertaining the vacancies and placing the Petitioner in the B.Ed pay-scale as against the appropriate available vacancies within 10 weeks from today.

N.M.JAMDAR, J.

CHIEF JUSTICE