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

WRIT PETITION NO. 8216 OF 2015

Asif Iqbal Nasim Ahmed and Ors.

... Petitioners.

V/s.

The State of Maharashtra and Ors.

... Respondents.

Mr. J.G. Reddy (Aradwad) for the Petitioners.

Mr. M.M. Pabale, AGP for Respondents 1 to 3.

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

DATE : 3 JULY 2019.

P.C. :-

Filed on 5 March 2014, the Writ Petition could not be taken up even for a preliminary hearing till today.

2. Learned Counsel for Respondent Nos. 1 to 3 states that time may be granted to said Respondents to file a counter affidavit.

3. For the reasons noted hereinafter and keeping in view the final direction which we propose to pass, counter affidavit is not warranted.

4. Claim of Petitioner Nos. 1 to 4 is that on different dates between 12 June 1995 till 1 June 2000 they were appointed on different posts under Respondent No.4 and Petitioner No.5 was appointed as a Junior Clerk on 7 July 1991 under Respondent No.5.

5. It is the further case of the Petitioners that Respondent No.4 was initially an unaided private school but was admitted for grant-in-aid in June 2002. Respondent No.5 was admitted to grant-in-aid in the year 1996-1997.

6. The State of Maharashtra by a Resolution dated 30 April 1998 cleared a time bound promotion scheme which was notified. As per the scheme, on fulfillment of conditions thereof, employees of aided private schools were to be granted an in situ promotion by placing them in the higher scale if 12 years service was rendered without any promotion earned.

7. The proposal to grant the benefit of the aforesaid scheme was forwarded by the respective school to the Accounts Officer of the Education Department who returned the proposal. The letter under which the proposal was returned is not on record but the case of the Petitioners is that the view taken by the Accounts Officer that 12 years service has to be reckoned from the date the schools became admissible to grant-in-aid is incorrect and contrary to settled law.

8. Concededly the said issue has been set at rest by a Division Bench Judgment of this Court dated 26 April 2012 in a batch of Writ Petitions, (lead matter) being Writ Petition No. 2897 of 2012 at the Aurangabad Bench of this Court. The view taken is that 12 years service shall be reckoned from the date the employees joined service and not from the date the institution which they joined became admissible to grant-in-aid.

9. Thus, the Petitioners are entitled to a declaration that the benefit of time bound promotion would be available to them on completing 12 years service reckoned from the date they joined service and not from the date the Respondent Nos. 4 and 5 were admitted to aid.

10. The contention of Counsel for first three Respondents is that the proposal was never considered by the Education Officer and was rejected by the Accounts Officer and thus the Education Officer has not applied his mind whether the conditions of the Policy have been met.

11. Thus, while granting the declaration as above, we dispose of the Petition directing the Respondent Nos. 4 and 5 to resubmit the proposal for conferring Time Bound Promotion benefit to the Petitioners to the Education Officer, Zilla Parishad, Nashik

(Respondent No.2). The Education Officer shall thereafter consider the proposal in terms of the Time Bound Promotion Scheme notified by the State Government as per Government Resolutions dated 23 July 1998 and 28 November 2006 reckoning services of the Petitioners from the date they joined service under Respondent Nos. 4 and 5.

12. Necessary decision shall be taken within 10 weeks from today.

13. Counsel for Respondent Nos.1 to 3 shall obtain a copy of this order and after authenticating the same forwarded it to the 2nd Respondent.

14. If found entitled to the benefit under the Government Resolutions, the enhanced grant-in-aid would be disbursed to Respondent Nos. 4 and 5, who shall pay the Petitioners the enhanced salary to which they would be entitled to. The payments would be disbursed within 6 weeks of the order being passed by the 2nd Respondent.

N.M. JAMDAR, J.

CHIEF JUSTICE