

JPP

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

WRIT PETITION NO. 6539 OF 2015

Smt. Lalkot Nafiza Daudsab and Ors. ... Petitioners.

V/s.

State of Maharashtra and Ors. ... Respondents.

Mr. Ajinkya Udane for the Petitioners.

Mr. M.M. Pabale, AGP for Respondents 1 and 2.

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

DATE : 18 JUNE 2019.

P.C. :-

Heard learned Counsel for the parties. Regretfully, no response has been filed to the Writ Petition which is of 2015 vintage.

2. Case pleaded by the Writ Petitioners is that the 3rd Respondent established a school named Maulana Abdul Kalam Azad

Boys and Girls Urdu High School in Solapur and initially was an unaided private school. The first two Petitioners were appointed as trained graduate teacher on 15 June 1992, Petitioner No.3 was appointed as a trained graduate teach on 12 June 1993 and Petitioner No.4 was appointed as a Peon on 11 June 1990.

3. The appointments were against permanent posts and the Petitioners held permanent employment. On 12 June 1995 the school started receiving 25% grant in aid and thus, became an aided school.

4. Case pleaded is that permanent employees of aided schools became entitled upon rendering 12 years permanent service. The Petitioners became entitled to receive salary in the higher scale. Learned Counsel for the Petitioners concedes to the point that in the Petition there is no reference to the Government Resolution under which the claim is stayed, but we find that the same can be gleaned from a decision dated 14 September 2000 in Writ Petition No. 4346 of 2000 passed by a Division Bench of this Court.

5. The Government Resolution is dated 2 September 1989.

6. The present issue contemplates grant of Senior Pay Scale and Selection Pay Scale to teachers as recommended by the National Commission under the Chairmanship of Professor D.P. Chatoopadhyaya. The placement was on rendering 12 years service.

7. Government took the stand that 12 years period shall be from the date a school was admitted to grant in aid. The Division Bench held that it was incorrect to assume that the 12 years period was vacant from the date the employees of aided school were given employment and it hardly matter that for a period of time they worked as permanent employees when the school was not receiving grant in aid. Meaning thereby the benefit for the Selection Scale has to be granted with reference to the date of initial appointment and not the date from when the school was admitted to grant in aid.

8. Since the factual aspect of the Petitioners' date of employment has to be considered and we find that the

representations made by the Petitioners have not been decided by the Education Officer (Secondary), Zilla Parishad, Solapur, we dispose of the Petition declaring the law as above.

9. At this stage we note that the Government Resolution dated 28 November 2006 annexed to the Petition. The Resolution lays down conditions for considering the service rendered in approved non grantable school. Therefore, the factual adjudication would also to be ascertained whether the conditions laid down in this Resolution and the relevant Government Resolutions are fulfilled.

10. Therefore, the Petitioner will make a comprehensive representation to the 2nd Respondent, who will decide the representation within the parameters of the aforesaid Government Resolution and consider the same as per law. The decision would be taken within eight weeks from the receipt of the representation. No costs.

N.M. JAMDAR, J.

CHIEF JUSTICE