

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1631 OF 2014

Chandrakant Gautam Terdale	 Petitioner
Vs.	
State of Maharashtra & Others	 Respondents

Mr. Meelan Topkar for the Petitioner.
Ms Rupali Shinde, AGP, for the Respondent-State.

CORAM: S.C. DHARMADHIKARI &
M.S. KARNIK, JJ.

DATE : FEBRUARY 15, 2019

P.C:

1. We have heard both sides and we find that on both the occasions, namely, in the year 2010, by the communication of 22-2-2010 (page 28) and by the impugned communication at page 34 of 2-1-2013, the Education Officer (Secondary), Zilla Parishad, Kolhapur, has not discussed anything but by a cryptic order held that the petitioner's appointment as Shikshan Sevak is not capable of being approved. It is only when he is appointed as an Assistant Teacher, after completing the probationary

period as Shikshan Sevak, that the question of approval will arise.

2. To our mind, the then Education Officer has not understood what the real grievance of the petitioner is. This has happened not only on the first occasion but on the second occasion in 2013 as well. The grievance of the petitioner, as summarised in his detailed representation, copy of which is at pages 29-32 of the paper-book, is specific. He was earlier a non-teaching employee. He was a Junior Clerk. He competed with others for the promotional post of Assistant Teacher and having been selected, he was initially appointed as Shikshan Sevak. This is in accordance with The Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and the Rules framed thereunder. Thereafter, on successful completion of the probationary period, the petitioner was appointed as an Assistant Teacher. The grievance of the petitioner is that, there is an order of 3-11-2008 by which he should be granted the pay-scale with effect from 1-2-2005 of Rs.5500-175-9000. The school accepted this and recommended

his case accordingly. Once that is the position, then, his pay-scales have to be protected. That his minimum pay should not go below what he was drawing as minimum pay while working as a Junior Clerk. Therefore, the period during which he was appointed as Shikshan Sevak on a consolidated amount could not be the guiding factor. The position in law should have been noted and as clarified in several Government Resolutions which enables a non-teaching staff also to get an appointment as a teacher, namely, on promotion. Therefore, the promotional post having been held, the petitioner's appointment should be reckoned from the time he was appointed as Shikshan Sevak and the pay-scales be determined accordingly so as not to cause him any monetary loss. This is his request and we do not find that to be considered by anybody, much less the officer of the status and holding the post of Education Officer or the Deputy Director of Education. In the circumstances, while we quash and set aside both the orders, we send the matter back to this Education Officer (respondent No.3) for re-determination and consideration of the petitioner's representation, copy of which is

at pages-29-32 of the paper-book. That be considered as expeditiously as possible and a reasoned order be passed thereon, on or before 31-7-2019. We clarify that we have not awarded any pay-scale, as claimed by the petitioner. We direct that his grievance should be examined thoroughly and he should be communicated, by a reasoned order, the fate of his request. Beyond that nothing should be read in our order and direction.

3. The writ petition is disposed of in the above terms.

(M.S. KARNIK, J.)

(S.C. DHARMADHIKARI, J.)