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

WRIT PETITION NO. 3103 OF 2016

Kawade Sarjerao Shivdas

... Petitioner.

V/s.

State of Maharashtra and Ors.

... Respondents.

Mr. Ajinkya Udane I/b. Ashok Madhukar Joshi for the Petitioner.

Mr. A.B. Kadam, AGP for the State – Respondents 1 to 3.

Mr. A.B. Tajane for Respondents 4 and 5.

Mr. Milind Deshmukh for Respondents 6 and 7.

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

DATE : 14 JUNE 2019.

P.C. :-

Heard learned Counsel for the parties. The Petitioner was appointed as an Assistant Teacher in the Respondent No.5 – School established by Respondent No. 4 - Trust. Appointment being with effect from 5 July 1999, he was placed in the pay scale of ₹ 4,500-7000. With reference to the service book of the Petitioner

in which an entry is made that for the year 2006-07 one increment was permanently withheld. The Petitioner pleads that his successive representations questioning the penalty remained unheeded to and thus, in the Writ Petition filed in the year 2016, one prayer made is to declare the entry in the service book to be illegal and penalty quashed.

2. It is too late. For said prayer the Writ Petition is hit by delay and laches. Said prayer is declined.

3. Second prayer made is that on rendering 12 years service, the Petitioner became entitled to be placed in the next above pay scale and as per the Petitioner while granting the benefit of the next above pay scale, the effect of one increment permanently stopped should not be given effective. This prayer cannot be allowed because one increment which was permanently stopped means that after 12 years when the pay of the Petitioner in the next above pay scale was computed, one increment benefit permanently stopped was required not to be restored. It is settled law that if one

increment is permanently withdrawn, it has recurring consequential effects.

4. The third prayer made is on the plea that on account of reduction of posts in Respondent No.5 – School, the Petitioner was absorbed under Respondent No.7 – School established by Respondent No.6, he was relieved on 11 December 2014 but was permitted to join in Respondent No.7 – School after 84 days. The Petitioner seeks wages for said period.

5. This relief has to be allowed to the Petitioner but who has to pay needs to be decided.

6. On this relief with consent of parties, we dispose of the Petition directing the Education Officer (Secondary), Zilla Parishad, Pune to decide as to who has to pay the Petitioner salary for these 84 days. Representatives of Respondent Nos. 5 to 7 would be summoned by the Education Officer and after hearing them necessary decision would be taken. Respondent No.3 would ensure

that his decision is implemented. Needful shall be done within six months from today.

N.M. JAMDAR, J.

CHIEF JUSTICE