

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 152 OF 2013

Pramod Narayan Puri	}	Petitioner
versus		
The State of Maharashtra }		
and Ors.	}	Respondents

Mr.Abhijeet J. Kandarkar for the
petitioner.

Mr.S.B.Kalel-AGP for respondent nos. 1, 4
and 5.

Mr.Prasad B. Kulkarni for respondent
no.6.

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

DATE :- FEBRUARY 12, 2019

P.C. :-

1. We have heard both sides. We have perused the writ petition, the annexures thereto and the affidavit in reply which has been filed on behalf of respondent nos. 1, 4 and 5. In that, it has been very clearly stated that the second respondent appointed respondent nos. 6 and 7 having trained graduate qualification of M.Com. B.P.Ed. and B.Sc. B.Ed. respectively, directly from open category on 20th November, 2000. The appointments were made in the vacancies of B.Ed. scale. From

the date of the appointment, they fall in the 'C' category and are senior to the petitioner.

2. The petitioner was appointed as Assistant Teacher in the third respondent school having B.A. B.Ed. qualification on 30th July, 1999 in D.Ed. scale. Merely because he has been appointed prior to respondent nos. 6 and 7, he claims to be senior. He firstly says that he ought to have been considered for B.Ed. scale over and above respondent nos. 6 and 7. They having been appointed in the year 2000, they are juniors.

3. We do not go into the issue as to whether this is a supersession in law, but what we find is that the explanation given by these respondents on affidavit cannot be said to be totally unacceptable. Even the Division Bench judgment, which has been relied upon, clearly says that the question of consideration of educational qualification would arise only in a case where two or more persons are appointed on the same date. Though it is held that the petitioner in that case was appointed prior to respondent no. 5 and will stand first in the seniority list, what we have and on record is the B.Ed. pay scale and which the petitioner claims from 30th July, 1999 to 22nd September, 2002. Thus, the B.Ed. scale has been granted, but with effect from 2003. For the prior years that has not been granted and the prayer is, it

should be granted and accordingly arrears be computed and that amount be also paid.

4. Once these reliefs in terms of prayer clause (b) cannot be granted, then, the other relief, particularly in terms of prayer clause (c), which the petitioner himself claims to be in like nature, also cannot be granted. That is thus following the petitioner acquiring the qualification of B.Ed. pay scale. That is admittedly after respondent nos. 6 and 7.

5. In these circumstances we find no merit in the writ petition. It is dismissed. There would be no order as to costs.

(M.S.KARNIK, J.)

(S.C.DHARMADHIKARI, J.)