

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

142 WRIT PETITION NO.10087 OF 2019

SUNILKUMAR KHANDU TOPLE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners : Mr Shelke Shivaji T.
AGP for Respondents State: Mr S. G. Karlekar
Advocate for Respondent No.3 : Mr Shrinivas S Wagh

CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.

DATE : 24th February, 2020

ORDER:

1. The petitioner is aggrieved by the condition of the approval order that for the period 2011 to 2016, salary should be paid by the Management.

2. Mr. Karlekar, learned A.G.P. submits that the State would bear the burden of salary from the date the order was passed by this Court. For the earlier period, the management should bear the burden of salary. For the year 2013-14, backlog existed. On that count also, approval could not have been granted.

3. Mr. Shelke, learned counsel for the petitioner submits that the petitioner belongs to reserved category NT-D and vacancy of the said category exist. The approval has been granted to the appointment of the petitioner from 01.1.2011 as Shikshan Sevak and after the period of three years thereafter, as Assistant Teacher on the pay-scale. When the petitioner has been granted approval from 01.01.2011, naturally, the said approval shall be for all purposes. The petitioner belongs to NT-D category

i.e. reserved category. The post was available for that reserved category. In such scenario, there was no propriety in observing that salary would be borne and paid by Education Department only from July, 2016.

4. This Court, in Writ Petition No. 6336 of 2016, under order dated 20th July, 2016 had only directed the Education Officer to decide the proposal. In fact it was the duty to be performed by the Education Officer to decide the proposal as directed by this Court.

5. In light of above, the clause that the honorarium and salary from 01.01.2011 to 19.07.2016 should be paid by the management is quashed and set aside.

6. Honorarium from 01.01.2011 for the period of three years and thereafter salary as per pay scale shall be paid by the State as, it is submitted that the appointment of the petitioner was on 100% grant in aid basis.

7. Mr Wagh, the learned Learned counsel submits within two weeks, salary bills will be submitted. In case, the bills are received, the Education officer shall process the same preferably within a period of two months.

8. Writ petition accordingly disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V.GANGAPURWALA, J.)

JPC