

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14374 OF 2019

SUMAN JIVANRAO SOMAWANSHI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. L.H. Kawale, Advocate for petitioner
Mr. S.B. Yawalkar, Addl. G.P. for respondent – State
Mr. P.R. Tandale, Advocate for respondent no. 3

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CORAM : SUNIL P. DESHMUKH &
M.G. SEWLIKAR, JJ.
DATE : 24-11-2020

ORDER :

1. Heard learned advocates for the parties.
2. There is no dispute on that the petitioner had been appointed long before 1972, in 1963 and that she is SSC pass. Petitioner had been a primary teacher since 1963 and has retired in 2000.
3. The Government of Maharashtra, in 1983, to be precise on 4th October, 1983 had passed a resolution, declaring that primary teachers, who were appointed prior to 1972 and having continuous service and not having D.Ed. qualification, but are SSC, should be deemed to be trained teachers.

4. While the petitioner qualifies for this deeming feature accorded under the government resolution, pay scale according to trained teacher had not been given to her during the course of her employment and retirement benefits, according to trained teacher as well were not being paid to her.

5. Petitioner, as such, has moved this court requesting benefits accrued to her pursuant to government resolution dated 4th October, 1983, referred to above, seeking arrears of difference of payment not received at her end, along with interest.

6. Mr. Yawalkar, learned AGP appearing for respondents – State pertinently refers to that while the petitioner, during her service tenure, had not demanded the pay scale as would ensue to her under government resolution dated 4th October, 1983 and for nineteen long years after her retirement, demand made by her is belated and, thus, the claim under writ petition may not be considered.

7. Mr. Tandale, learned counsel appearing for respondent no. 3 - Zilla Parishad purports to resist, referring to that while certain relevant aspects were not brought to the notice of High Court when orders were passed in writ petitions no. 1581 of 2015 and others, review petitions were proposed. He submits that there is huge delay and the petition suffers laches.

8. Mr. Kawale, learned advocate for petitioner refers to order dated 6th November, 2019 passed by this court in writ petition No. 13474 of 2019, wherein as well, there had been delay in approaching this court and division bench of this court though was not inclined to grant actual benefits of arrears of salary of deemed trained teacher, since the date of retirement, however, those were directed to be calculated notionally and benefits were directed to be given to the petitioner for pension purpose and other retiral benefits. Mr. Kawale, learned advocate for the petitioner refers to that petitioner in writ petition No. 13474 of 2019 has retired in 2002. Mr. Kawale, learned advocate appearing on behalf of the petitioner, on instructions, submits that pensionary benefits according to proper pay scale as trained teacher accorded under Government resolution dated 4th October, 1983 may be paid to petitioner.

9. Having regard to that benefits which ought to ensue to petitioner, had not been given to her during her service tenure, benefits to the petitioner flowing from decision of the Government be notionally calculated and actual benefits be given to petitioner for pension purpose and other retiral benefits.

10. Having regard to aforesaid, we deem it appropriate to adopt the course of order dated 06-11-2019 passed by this court in

writ petition no. 13474 of 2019 and, therefore, benefits to the petitioner flowing from decision of the Government be notionally calculated and actual benefits be given to her for pension purpose and other retiral benefits. Said exercise be carried out by the respondents expeditiously, preferably within a period of four (4) months from the date of receipt of writ of this order.

11. Writ petition accordingly is disposed of.

[M. G. SEWLIKAR]
JUDGE

[SUNIL P. DESHMUKH]
JUDGE

arp/