

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 959 OF 2019

Smt. Asawari Arvind Chavan.

..Petitioner.

Versus

State of Maharashtra & Others.

..Respondents.

Mr. Y. B. Lengare for the Petitioner.

Mr. Vikas Mali, AGP for Respondent Nos. 1 to 4.

Coram : R. K. DESHPANDE, &
PRITHVIRAJ K. CHAVAN, JJ.

Date : **March 11, 2020.**

P. C. :

1. Rule. Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the respective parties.

2. The Petitioner was appointed as a part time librarian in private aided school on 12th June 1995. Thereafter she was made a full time librarian with effect from 1st April 2006. The claim of Petitioner is that on the strength of students, which was more than 1,000 during the academic sessions 1999-2000, she should be treated as a full time librarian and services rendered by her should be counted for giving all other consequential benefits available to a full time librarian in accordance with law.

3. The claim is opposed by the Education Department by filing an affidavit dated 27th February 2019. It is the stand taken that if the strength of students had increased to 1,000 or more, then, it was necessary for the school authorities to forward a proposal for granting approval to the appointment of the Petitioner as a full time librarian. This has not been done by the school management, and therefore, the Petitioner is not entitled to the status as a full time librarian with effect from the academic sessions of 1999-2000.

4. If the factual aspect of the strength of students exceeding 1,000 from the academic session 1999-2000 is not disputed, then, in terms of the Government Resolution dated 28th June 1994, after completion of 5 years service as a part time librarian, the Petitioner is entitled to get status as a full time librarian. The Petitioner cannot be made to suffer for the fault on the part of the management in not forwarding such proposal for her continuation as a full time librarian. We, therefore, cannot sustain the stand taken by the Education Officer in the affidavit. In our view, the Petitioner therefore would be entitled to the

benefit of the Government Resolution dated 28th June 1994.

5. In the result, this writ petition is allowed and following order is passed :

-: O R D E R :-

[1] The management of the school is directed to submit a proposal to the Education Officer for grant of status to the Petitioner as a full time librarian with effect from the academic session 1999-2000. This be done within the period of one month from the date of receipt of a copy of this order.

[2] The Education Officer to consider such proposal in accordance with the Government Resolutions and pass appropriate order assigning appropriate date to the Petitioner for bringing her as a full time librarian from the academic session when for the first time, the strength of students was increased to 1,000 or more. Obviously, the Petitioner would not be entitled to arrears arising therefrom. However, services rendered by the Petitioner on full time basis as a result of the order to be passed by the Education Officer shall be counted for the purpose of pension and all other consequential benefits.

[3] If the Petitioner is denied counting of 50% of the services rendered by her as a part time librarian, then, it shall be open for her to agitate such grievance as and when cause of action arises for the same.

[PRITHVIRAJ K. CHAVAN, J.]

[R. K. DESHPANDE, J.]