

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1968 OF 2020

DR SAYANNA PIRAJI MATHAMWAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.G.S.Shete, Advocate for the petitioner.
Mr.S.R.Yadav, AGP for respondent Nos.1 and 2
Mr.Aftab S.Patel, Advocate for respondent No.3.
Mr.V.S.Bhale, Advocate for respondent No.4.

(CORAM : RAVINDRA V. GHUGE &
S.G. MEHARE, JJ)

DATE : SEPTEMBER 14, 2021

PER COURT :

1. Today, the learned Advocate for respondent No.4 has appeared before us. His contention is that the prayers set out by the petitioner in Clause 19-B cannot be accepted as the earlier policy of the Government of granting 2 increments to a State Awardee Teacher (राज्य आदर्श शिक्षक पुरस्कार) was continued and the petitioner cannot be held entitled to payment for arrears.

2. We have perused the communication dated 17/11/2017

addressed by the Office of the Accountant General (A & E) – II Maharashtra and Nagpur, vide which the Education Officer (Secondary), Nanded is intimated of the final pension amounts to be paid to the petitioner. The learned Advocate for the petitioner submits on instructions that the said communication settles the pension amounts payable to the petitioner and the petitioner is satisfied. His only grievance is voiced in prayer clause 19-B, which reads as under :-

"B. By way of writ of mandamus or any other appropriate writ, order or direction may be given to the Respondents to make the payments of difference of arrears of salary and leave encashment after the revised pay fixation as well as fixation of revised pension of the petitioner for the period from 05/09/2010 to 31/01/2016 with interest @ 18% per annum from the date of entitlement till its realization."

3. It appears to us that respondent No.4 Head Master is apprehensive about wrong calculations of the increments in the light of 2 advance increments payable to the petitioner since he being a State Awardee teacher. With this apprehension in mind, respondent No.4 submits that there are certain objections as regards whether the arrears of such increments are payable to the petitioner.

4. Considering the above, we are of the view that respondent No.4 is at liberty to tender the bills of arrears based on the claim of the petitioner, with objections, to the Education Officer. The Head Master is at liberty to refer to whichever Government Resolutions he finds appropriate as being applicable to the demand of the petitioner. Eventually, the Education Officer would be empowered to consider the said objections and arrive at an appropriate decision.

5. The learned Advocate representing the Education Officer submits that a time frame may be granted to respondent No.4 to submit the bills of arrears alongwith objections since he has not complied with the directions of the Education Officer dated 30/06/2017 and the reminder dated 07/12/2018. So also a specific date may be mentioned when the petitioner and respondent No.4 would appear before respondent No.2 to address the Authority regarding their respective claims.

6. In view of the above, this petition is disposed off with the following directions :-

[a] Respondent No.4 shall tentatively calculate the difference of arrears of salary and leave encashment after the revised pay fixation in

light of the revised pension, from 05/09/2010 to 31/01/2016 and submit the said proposal alongwith his objections and reference documents as he may deem fit and proper, on or before 15/10/2021.

[b] The petitioner and respondent No.4 shall remain present before respondent No.2 at 2.00 p.m. on 22/10/2021 for addressing the said authority on their respective claims. Written notes of submissions are permitted.

[c] Respondent No.2 shall thereafter proceed to consider the claim of the petitioner, bills submitted by the Head Master and the objections and pass a reasoned order on or before 30/11/2021.

[d] In the event, respondent No.4 is convinced as regards the claim of the petitioner, he would also calculate the interest which is normally payable and include the said component in his order.

7. If any of the parties are aggrieved by the decision of the Education Officer, they may chose to avail of a remedy, as is permissible in Law.

(S.G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)