

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.13718 OF 2018

**BABURAO ANANDA RAHATE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for the Petitioners : Shri Kedar Shrimant R.
AGP for Respondents 1 and 2 : Shri S.B. Pulkundwar
Advocate for Respondents 4 and 5 : Shri V.G. Salgare
Advocate for Respondent 3 : Shri A.N.Jagatkar

...

CORAM : RAVINDRA V. GHUGE

&

S.G. MEHARE, JJ.

DATE :- 17th August, 2021

Per Court :-

1. We have heard the learned advocates for the respective sides to some extent. By an order passed by this Court on 03.12.2015 in Writ Petition No.781/2015, the Deputy Director of Education was directed to hear the petitioner as well as respondent Nos.3 to 5 to the extent of the prayer of the petitioner for payment of his salary dues with effect from 01.09.2008 till he was in employment upto 03.12.2015. The Deputy Director of Education was indicated by this Court that he would hear all the parties on the representation made by the petitioner and pass a reasoned order.

2. There is no dispute that on the representation made

by the petitioner pursuant to the order of this Court, the Education Officer (Primary), has passed an order on 01.11.2019 mandating the payment of salary to the petitioner on the basis of the pay scale Rs.5200-20200/- with Grade Pay of Rs.2800. There is also no dispute that, neither the petitioner nor respondent No.4/ Management, have challenged this order before this Court.

3. The petitioner has preferred this petition seeking calculations of his unpaid salary by acknowledging that he has received Rs.1,51,200/- until now. By this petition, the petitioner has put forth prayer clause B, which reads as under :-

“B) Kindly be directed to Respondent No.4 and 5 to release the due salary of petitioner from 01.09.2008 to 15.12.2014 with 9% interest thereon.”

4. Despite the fact situation that respondent No.4/ Management has not challenged the order of the Education Officer dated 01.11.2019, which was delivered pursuant to our directions, Shri Salgare, learned advocate, consistently argues before us that there are many judgments which are to be considered and there is Schedule-C which is to be considered. All his submissions are abstruse and in the absence of posing a substantive challenge to the said order. We cannot entertain such

arguments which are made in air without there being any challenge to a specific order passed by the competent authority pursuant to the directions of this Court.

5. In view of the above, this Writ Petition is partly allowed with the following directions :-

- (a) Respondent No.3/ Education Officer shall calculate the unpaid salary of the petitioner in view of the pay scale set out on internal page 4 of the order dated 01.11.2019. Such calculations shall be made on or before 15.09.2021, taking into account that an amount of Rs.1,51,200/- has been paid by the Management to the petitioner.
- (b) Respondent No.3 shall transmit the said order calculating the unpaid salary, to respondent No.4/ Management on or before 30.09.2021 directing respondent No.4 to make the said payment to the petitioner within 30 days therefrom i.e. the Management shall be duty bound to pay the said amount to the petitioner on or before 30.10.2021.