

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2278 OF 2007

1. Smt. Manutai Sukhdev
Dhumal @ Manutai Ramchandra
Zarad

And Others ... Petitioners

Versus

The State of Maharashtra
through its Secretary,
Women and Child Welfare
Department

And Others ... Respondents

Mr. R.V. Bansode for the Petitioners.

Ms. M.S. Bane, AGP for Respondent Nos.1 and 3.

Ms. Kanchan Phatak i/b Nitin P. Deshpande for Respondent Nos.4 to 9.

**CORAM : PRASANNA B. VARALE &
S. M. MODAK, JJ.**

DATE : 23 DECEMBER, 2021

Oral Judgement : (Per Prasanna B. Varale, J.)

. Heard learned Counsel for the Petitioners.

2 Our attention was invited to the prayer clauses of the petition. The petition is filed in the year 2007. Though the principal prayer at the time of filing the petition was prayer-(b), wherein the Petitioners prayed for quashing of Government Resolution dated 9 February

2005. Mr. Bansode, learned Counsel appearing for the Petitioners submitted that the petition was amended subsequently and now prayer pressed for service is prayer clause-C(i). For ready reference, both prayers are quoted below :-

“(b) This Hon’ble Court be pleased to issue by an appropriate writ, order, direction, in the like nature it may be declared that the Government Resolution dated 9 February 2005 issued by the State Government i.e. Respondent No.1 is illegal and the same may be quashed and set aside.

C(i) This Hon’ble High Court be please to issue & appropriate writ, order, direction, in the like nature and thereby direct the Respondent Nos.1 to 3 to pay to the Petitioners the difference of honorarium/salary along with 18% interest thereon till the realization w.e.f. 22.05.2006 and 23.05.2006 as on these dates the Petitioners were eligible to hold the post of Aganwadis Sevikas.”

3 Perusal of record show that the Division Bench of this Court on 16 April 2007, issued notice to the Respondents and an ad-interim relief in terms of prayer clause (d) was granted. Perusal of the record further shows that the amendment to the petition was sought for by filing Civil Application No.2054 of 2018 on the backdrop of the judgement of the Division Bench of this court in the matter of **Rajeshree Rajaram Ghude and Others Vs. State of Maharashtra and Others**¹. By allowing the application, the Petitioners were permitted

1 2006(5) Mh.L.J. 400

to carry out the amendment. Accordingly, amendment is carried out in the petition. Though the matter is appeared before this court subsequently on various dates, the matter could not be heard due to paucity of time, but the adjournment could not have been a hurdle for filing the replies by the contesting respondents, namely, State of Maharashtra and Zilla Parishad and for the reasons best known to these authorities, till date no reply is filed. Ms. Bane, learned AGP though prayed for adjournment on the ground of filing of affidavit in reply, considering the fact that the petition is filed in the year 2007, no reply is filed till date and issue is governed under the judgment of this court, we see no reason to grant an adjournment on the request of learned AGP and to keep the petition pending for further period. Otherwise also the Petitioners are awaiting for hearing and disposal of the petitions for long 23 years and asking again to the Petitioners to wait for further period year, would be put the Petitioners to serious prejudice. As such, the petition is heard for final disposal.

4 The other Respondent Nos.4 to 9, who are the private parties are formal parties, who were appointed in place of the Petitioners. But the Petitioners were protected by way of granting ad-interim relief in terms of clause (d) and it is submitted before this court that services of these Petitioners were continued for further period. As such, the disposal of the petition would not cause any prejudice to Respondent Nos.4 to 9. Ms. Kanchan Phatak, learned advocate h/f Mr. Nitin P. Deshpande, is appearing for Respondent Nos.4 to 9, the private parties.

Brief facts giving rise to the petition can be summarized as follows :-

5 All these six Petitioners were working as Anganwadi Tai/Anganwadi Sevika at various places. At Exhibit 'A' Colly, at page 21 of the petition, a chart is placed on record to submit that the Petitioners have entered in the services in year 1978, 1991, 1992, 1998 and 1984, respectively. On going through the other material placed on record, we find that Petitioner No.1 Smt. Manutai Siukhdev Dhumal @ Manutai Ramchandra Zarad was working as Balwadi Tai in Village Ambale, Tal. Shrur, Dist. Pune from 1 June 2002, Petitioner No.2 Smt. Anjana Bahusaheb Kalsakar @ Anjanabai Sarjerao Sapate was working as Balwadi Tai in Village Kalaskar Wadi, Tal. Shrur, Dist Pune, from 1 June 1991, Petitioner No.3 Smt. Bebi Shivaji Kamble @ Bebi Dadabhau Zende was working as Balwadi Tai in Village Ambale, Tal. Shirur, Dist. Pune from 1 December 1992. Similarly, Petitioner No.4 Smt. Shalan Madhukar Kadam @ Shalan Shivram Dolas was working as Anganwadi Tai from year 1993. Petitioner No.5 Smt. Lalita Vishnu Gavali @Lalita Dinkar Kolhe entered in service of Grampanchayatm, Nimole, Tal Shirur, as Balwadi Tai from 23 November 1998 and Petitioner No.6 - Smt. Usha Devram Kale @ Usha Prakash Durge was appointed in the year 1997. The order in respect of Usha Devram Kale issued by Block Education Officer, Panchayat Samiti, Shirur (Pune) is placed on record at page 110 of the petition. Petitioner Nos.1 to 5 having

their academic qualifications at the level of 7th Std passed candidates, whereas Petitioner No.6 Usha Devram Kale studied upto 9th Std and was unable to clear 10th Std examination. The Petitioners have thus served with Zilla Parishad for considerable length of period.

6 It is submission of the Petitioners that pursuant to the Government Resolution dated 9 February 2005, Respondent No.2-Zilla Parishad, Pune called upon the eligible candidates for appointing them as Anganwadi Sevika and Madatnis at various places. Respondent Nos.4 to 9 responded notices issued by Zilla Parishad and they were selected and subsequently, they were appointed in place of the Petitioners. Also the orders placed on record at Exhibit 'F' Collectively, page 114 of the petition. Perusal of the order shows that the Respondents were appointed on temporary basis on monthly Honorarium @ Rs.1400/-. In challenge to the action of the Respondent-Zilla Parishad denying the claim of the Petitioners for continuation and appointing Respondent Nos.4 to 9 in place of the Petitioners, on the ground of G.R. dated 9 February 2005, applying the academic qualification criteria, learned Counsel appearing for the Petitioners vehemently submitted that the instance placed on the academic criteria by Respondent-Zilla Parishad is unsustainable in view of the judgment of this court. Learned Counsel, then, submitted that though Petitioner Nos.1 to 6 were continued during the pendency of the petition and though Petitioner Nos.1 Smt. Manutai Dhumal and 2 Shalan Kadam stood retired

during pendency of the petition, they were paid honorarium treating these Petitioners as Anganwadi Madatnis @ Rs.500/- per month. Thus, it is the submission of learned Counsel appearing for the Petitioners that the Petitioners are entitled for monetary benefit as claimed and submitted in this court by way of a tabular chart. The said chart is taken on record and marked as 'X-1' for identification.

7 Ms. Bane, learned AGP opposes the petition on the ground that the Petitioners are governed by Government Resolution dated 9 February 2005 and Petitioner Nos.1 to 5 have not passed 8th Standard examination, as such, they were not entitled to claim any regularisation firstly, and secondly, as the Petitioners were working as Anganwadi Madatnis, they would be entitled to claim any monetary benefit only @ Rs.500/- per month as per the Government Policy.

8 Considering rival submission of learned Counsel as well as documents placed on record, more particularly, considering the judgment of Division Bench of this court, we are of the opinion that learned Counsel for the Petitioners made out a case for allowing the petition, partly. As documents are placed on record to show that the Petitioners have entered in the services of the Respondent-Zilla Parishad way back in the year 1991, 1992, 1993 and 2002, as no affidavit-in-reply filed by the Respondent-Zilla Parishad by placing on record the contra material, the fact of entering of the Petitioners in the services of the Respondent-Zilla Parishad as Anganwadi Tai,

i.e. Anganwadi Worker, remained undisputed.

9 Now the opposition of learned AGP on the ground of non-compliance of the academic qualification, is clearly unsustainable in view of the judgment of the Division Bench. It will be useful for our purposes to refer to the observations of the Division Bench in the backdrop of the very Government Resolution dated 9 February 2005. It is observed by the Division Bench in paragraphs-3, 4 and 5, which reads thus :-

“3. Reply has been filed by one, Mrs. Pranali Chitnis Under Secretary to the Government affirmed on 23 June 2006. Extracts from the Manual on Integrated Child Development Services has been annexed to this affidavit as also the Government Resolution dated 9 February 2005. As far as the conditions of eligibility for the appointment to the post of Anganwadi Sevikas is concerned, in this affidavit paragraph 6 very fairly refers to Guide-lines No.5:25 of the manual which reads as follows :

“The Anganwadi worker who should be a village level worker would be responsible for the delivery of various services envisaged under the scheme. The Anganwadi worker is to be an honorary worker and will be paid honorarium at the rate of Rs.175 per month if she is a matriculate, and Rs.125/- per month if she is a non-matriculate. It would be preferable to select matriculates as Anganwadi workers. Alternatively, the Anganwadi worker should at least have passed standard VIII. However, where even a standard VIII passed Anganwadi worker is not available, less

educated or even illiterate semi-literate but intelligent woman from the same village may be appointed as Anganwadi worker.”

4 From these Guide-lines, it is very clear that when this Scheme was promulgated, the requirement of eligibility was that Anganwadi Sevika should at least have passed standard VIII examination if not matriculate. It is further stated thereafter, which is very relevant, as follows :

“However, where even a standard VIII passed Anganwadi worker is not available, less educated or even illiterate semi-literate but intelligent woman from the same village may be appointed as Anganwadi worker.”

Anganwadi Sevikas are required to look after the children who come to the unit, feed them and teach them basic alphabets. In the instant case, all the petitioners have passed 7th standard examination though not 8th. The affidavit filed on behalf of the States points out in paragraph 2 as to what are the expectations from Sevikas. They are essentially to improve the nutritional and health status of children in the age group of 0 to 6 years and to lay foundation for proper psychological, physical and social development of the child. It is from this point of view that even illiterate semi-literate women who are otherwise intelligent are permitted to take up these responsibilities. As stated above, in the instant case, all the petitioners have passed 7th standard examination.

5. As stated above, in the instant case, an advertisement was given on 11th January 2005. The subsequent Government Resolution dated 9 February 2005 though states that it is in supersession of earlier Government Resolution, all that, it refers to the Integrated Child

Development Scheme in paragraph 4 and then states that whatever are the conditions thereunder for Anganwadi Sevikas will have to be fulfilled by the candidate concerned for appointment. As noted earlier, under the Central Government Scheme, semi-literate intelligent women are also entitled to be appointed on these posts. In any case, we are concerned with selections made prior to the State Government Resolution of 9th February 2005.”

10 By considering all these aspects, the Division Bench of this Court was pleased to allow the petition with further directions to the Respondents to convert the petitions to the posts of Anganwadi Sevika from the date on which they completed two years of experience. The Division Bench then directed the Respondents to grant difference in honorarium to the Anganwadi Sevika treating honorarium for the Anganwadi Sevika @Rs.1400 per month and the Respondent-Zilla Parishad was directed to clear dues of the arrears within stipulated period.

11 Now admittedly, Petitioner Nos.1 to 5 are 7th Standard examination passed and Petitioner No.6 could not get through 10th Standard examination. At the cost of repetition, we may state that Division Bench referred to relaxation to academic qualifications in the Government Resolution and in the Guide-lines submitted before the Division Bench by referring to Guide-line 5:25 of the manual. It was stated “where even a standard VIII p passed Anganwadi worker is not available, less educated or even illiterate semi-literate but

intelligent woman from the same village may be appointed as Anganwadi worker.” So the object of the State Government was to provide services in the villages of Anganwadi Madatnis and Anganwadi Sevikas and the academic qualification was a relaxable criteria.

12 On the backdrop of these facts, we see no reason to accept the submission of learned AGP. Admittedly, all the Petitioners, except Petitioner Nos. 1 and 2 are still working with the Respondent-Zilla Parishad, though the Petitioners in the chart and in the annexure to the chart in a tabular form claiming for the monetary benefit, submitted that there was a periodical rise in the salary of the Petitioners. In the backdrop of the judgment of Division Bench of this court, in the matter of **Rajeshree Rajaram Ghude** (*supra*), and in the absence of any supporting material being placed to show that by way of Government Policy, there was rise in the honorarium, we hold that the Petitioners are entitled to be treated as Anganwadi Sevika and are entitled to monetary claim @ Rs.1400/-per month as Honorarium. It is the submission of learned Counsel appearing for the Petitioners that the Petitioners are paid Rs.500/- per month only, treating them as Anganwadi Madatnis. We permit the Petitioners to submit a detailed statement of their arrears treating the Petitioners are entitled for receipt of honorarium @ Rs.1400/- per month. Such statement to be submitted to the Respondent No.2-The Chief Executive Officer, Zilla Parishad, Pune to verify the record and pass appropriate orders as early as possible and not later than four weeks

from the date of receipt of the same.

13 In case, if there is any change in the rate of honorarium by way of Government policy, reflected either in the Government Notification, Government Order or Government Resolution, the Petitioners are at liberty to submit their statement accordingly along with Government Notification, Government Order or Government Resolution, on which the Petitioners are claiming reliance.

14 We further make it clear that as in view of the judgement of this court, the Petitioners would be entitled to claim the honorarium @ Rs.1400/- per month from the date of completing their two years post their entering in the services of Respondent-Zilla Parishad. The Petitioners may submit all necessary documents in support of their monetary claim to Respondent No.2-Zilla Parishad.

15 With above referred directions, the petition is disposed of.

RAJESH
VASANT
CHITTEWAN

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Date: 2022.01.07
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(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)