

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7047 OF 2019

Jayendra s/o Devidas Patil

Petitioner

Versus

The State of Maharashtra & others

Respondents

Mr. A. D. Pawar, advocate for the Petitioner.

Mrs. R. P. Gour, AGP for Respondent Nos. 1 to 4.

Mr. C. T. Jadhav, advocate for Respondent No.5.

CORAM : C. V. BHADANG AND
SANDIPKUMAR C. MORE, JJ.

DATE : 04 July 2022.

PC :

By this petition under Article 226 of the Constitution of India, the petitioner is seeking upgradation to the post of full time Librarian as per the Government Resolution dated 28.06.1994 with effect from 13.06.1997.

2 The petitioner was appointed in Respondent No. 5-School as a part-time Librarian on 13.06.1997. The petitioner is holding the qualification as B.A. and B. Lib. The appointment of

the petitioner was approved by the Education Officer. Subsequently, the petitioner has been appointed as a full time Librarian with effect from 01.04.2006, which appointment has also been approved by the Education Officer on 12.03.2007.

3 The petitioner is placing reliance on the Government Resolution dated 03.08.2006, by which it is provided that whenever and wherever strength of the students in the college exceeds one thousand, the post is required to be upgraded as full time Librarian.

4 The learned Counsel for the petitioner has placed reliance on the decision of this Court in batch of writ petitions bearing **W. P. No.12902 of 2018 and others (Punjabari Baburao Dighe & others Vs. State of Maharashtra & others)**, decided on **06.05.2022**, in order to submit that similar relief has been granted by this Court in identical circumstances.

5 On behalf of the Respondents, reliance is placed on the decision of this Court in **Writ Petition No. 2311 of 2013 (Satish Ganpatrao Patil Vs. State of Maharashtra & others)**, decided on **31.03.2015**.

6 However, learned Counsel for the petitioner points

out that the decision in **Satish Ganpatrao Patil** (*supra*) has been considered by this Court in W. P. No. 12902 of 2018 in paragraphs no. 56 and 57 of the judgment and order dated 06.05.2022.

7 We have heard learned Counsel for the respective parties. Perused record.

8 It appears that the petitioner was appointed as a part-time Librarian in the Respondent-School on 13.06.1997 and has been subsequently appointed as full time Librarian with effect from 01.04.2006. The record also discloses that the strength of the students in the school had exceeded one thousand in the year 1997-98 itself, which aspect is not disputed on behalf of the Respondent-State. Thus, in our considered view, the petitioner would be entitled to the benefit of the Government Resolution dated 03.08.2006.

9 The learned Counsel for the petitioner is restricting his claim to the extent of prayer clause “B” except that the petitioner is not claiming any arrears of salary from 13.06.1997 till 01.04.2006.

10 In that view of the matter, the petition is allowed in

terms of prayer clause “B”, subject to the condition that the petitioner shall not be entitled to the arrears of salary for the period from 13.06.1997 to 01.04.2006. However, the said period shall be notionally reckoned for giving pensionary and all consequential benefits to the petitioner. Such benefits, which have already accrued, be extended within eight weeks from today.

SANDIPKUMAR C. MORE, J.

C. V. BHADANG, J.

adb