

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

Writ Petition No. 5098 of 2021

Shri Yashwant Chandrakant Raibagkar	...	Petitioner
v/s.		
The State of Maharashtra & others	...	Respondents

Mr. Avinash R. Belge for the Petitioner.
Mrs. P.J.Gavhane, AGP for the State.

**CORAM : SUNIL B.SHUKRE &
G.A. SANAP, JJ.**

6th April 2022

P.C.

Heard learned Counsel for the parties.

2. Rule. Rule made returnable forthwith. Heard finally by consent of the parties.

3. It is submitted that while upgrading the position of the Petitioner as part time Librarian to one as full time Librarian, the effect of upgradation was given from 1st April 2006. According to learned Counsel for the Petitioner, the effect ought to have been given from

2003-2004 as that was the year when the students' strength crossed 1000 which was the requirement of the G.R. dated 28th June 1994 for upgradation of part time post to that of full time post.

4. Insofar as the fact of increase in students' strength above the limit of 1000 from the year 2003-2004 is concerned, there is no dispute. If this is the position, the case of the Petitioner would not be governed by G.R. dated 3rd August 2006 but by G.R. dated 28th June 1994 and, therefore, the Petitioner would be entitled to receive all the benefits of the G.R. dated 28th June 1994.

5. In similar cases, this Court has taken the same view as we have taken. This is seen from a common judgment rendered on 27th October 2021 in the case of **Vijay P. Pathak v/s. State of Maharashtra & ors. in Writ Petition No.960/2019** alongwith other connected matters wherein it has been held that if the school satisfies the criteria of total strength of the students being more than 1000, the appointment of full time Librarian has to be approved in terms of the G.R. dated 28th June 1994. As stated earlier, the criteria of G.R. dated 28th June 1994 has already been fulfilled by the Petitioner and, therefore, the Petitioner cannot be subjected to discriminatory treatment.

6. In the result, we are of the view that this petition deserves to be

allowed and it is allowed in the following terms:

(i) The concerned Respondents are directed to consider Petitioner's service and grant approval with effect from academic year when the institution of the Petitioner acquired the strength of more than 1000 students, as per the G.R. dated 28th June 1994 and are further directed to make pay fixation and grant other consequential benefits including time bound promotion in view of the G.R. dated 28th June 1994.

(ii) The concerned Respondents are directed to grant notional pay fixation, time bound promotion and other benefits after granting approval to the appointment of the Petitioner as full time Librarian in terms of G.R. dated 28th June 1994.

(iii) The school management is directed to sent the proposal for the purpose of giving benefits to the Petitioner in terms of G.R. dated 28th June 1994 to Respondent No.4 within a period of two weeks from the date of the order.

(iv) We further direct that Respondent No.2 shall decide the same in accordance with law within a further period of four weeks from the date of receipt of proposal.

(v) The concerned Respondents are directed to allot Provident Fund Account to the Petitioner and ensure that appropriate deductions towards contributions are made as per old Pension Scheme.

7. Rule is made absolute in the above terms.

(G.A.SANAP, J)

(SUNIL B.SHUKRE, J)

Lata Panjwani, P.S.