

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.3653/2014

Kundalik Budhaji Badole ... Petitioner

- Versus -

The State of Maharashtra and others ... Respondents

Mr. M.M. Sudame, Advocate for Petitioner.

Mr. A.S. Fulzele, Additional Government Pleader for
Respondent Nos. 1 and 2.

Mr. S.G. Joshi, Advocate for Respondent Nos. 3 and 4.

**CORAM : NITIN JAMDAR AND
ANIL L. PANSARE, JJ.**

DATE : 4 MAY 2022

P.C. :

Heard the learned Counsel for the parties.

2. In this Writ Petition, the Petitioner was appointed as Head of the School namely Nasikrao Vidyalaya, Satalwada, Tahsil Sakoli, District Bhandara, conducted by Respondent No.3 on 22 May 1988. The Petitioner was terminated from service.

Thereafter, the Petitioner approached the School Tribunal and he was reinstated in service with continuity and part of the backwages. Thereafter, upon a Petition filed in this Court, this Court directed Respondent Nos. 2 and 3 to submit the proposal in favour of the Petitioner. The Petitioner continued in service.

3. The Petitioner, on 3 July 2013, made an application to Respondent No.2-Education Officer for fixation of his pay from the year 1988, for grant of Senior Grade Pay Scale and for arrears in salary and pension. Since inspite of the reminders, nothing was done, the Petitioner filed the present Petition for a direction to the Respondents to fix the pay of the Petitioner from the date of his appointment i.e. 22 May 1988 and grant of pensionary benefits as the Petitioner had superannuated from service. The Petitioner also sought direction to the Respondents to grant Senior Pay Scale to him from 22 May 1988 to 31 March 2013 and other consequential benefits on that premise.

4. In this Petition, Rule was issued on 21 July 2016. The Petition came up for hearing on 1 October 2021, when the Division Bench directed the Education Officer to file a reply and place certain facts on record upon which clarity was required. Thereafter, on 11 March 2022, when the Petition came up on Board, the following order was passed :-

"The issue that is sought to be raised by the Petitioner is regarding completion of 12 years to make him eligible for pay fixation. Whether the Petitioner has completed 12 years of service is a factual aspect.

2. *By the order dated 01 October 2021, this Court had directed the Respondent No.2-Education officer to file reply. No reply is filed.*

3. *The Petitioner and representative of Respondent-Management will attend the office of Respondent No.2-Education Officer, who will after going through the record and clarifying doubts, if any, from the Petitioner and Respondents submit a report to this Court by way of an affidavit as regards this factual aspect.*

4. *The Petitioner and the representative of Management to attend the office of the Respondent No.2-Education Officer on 21 March 2022, whereupon the Respondent No.2-Education Officer will give further suitable date convenient to all the parties.*

5. *Report affidavit be submitted by 30 March 2022.*

6. *Stand over to 8 April 2022."*

5. The Petition came up on Board on 26 April 2022, the following order was passed :-

"The learned Additional Government Pleader states that instructions have been received from the

Education Officer wherein he has interaction with the Petitioner and the Management and seeks time to place the same on record by way of an affidavit.

2. The affidavit shall also clarify the position regarding the appointment order issued to the Petitioner that is subject to the petition mentioned therein, the implication thereof on the prayer sought for by the Petitioner in this Writ Petition.

3. Affidavit be filed by Monday i.e. on 02 May 2022. List the Petition on 04 May 2022 for consideration at the bottom of "Admission" Board."

6. The learned Additional Government Pleader states that the Education Officer examined the issue and has filed an affidavit on 29 April 2022. In the affidavit, the Education Officer has stated as under :-

"1.

2.

3. During the hearing, it transpired that, the petitioner was granted approval vide letter dated 30.03.2013 for the academic session from 25.06.1988 to 30.06.1991 on non-grant-in-aid basis. Further, by order dated 02.06.1998 the approval was granted for period of 8 months. Similarly, by letter dated 11.01.2012 the petitioner was granted approval from 09.02.1992 to 24.06.2002 on the post of the Assistant Teacher, but on

the condition that the petitioner shall not be entitled for the wages for the said period and also he cannot claim the same. It further transpired during the hearing that, the petitioner has completed 12 years of service.

So far as the entitlement of the petitioner for the benefits of senior grade pay fixation the same has to be forwarded by the management directly to the Office of the Account Officer Audit Squad, Education Department, Bhandara, the same is not forwarded by the Management till date."

7. Thus, it is clear that the Education Officer has accepted the entitlement of the Petitioner and has stated that further steps will have to be taken by the Respondent Management.

8. On 30 April 2022, the Respondent Management through one Prakash Daulat Badole, as the Secretary of the Respondent Institute has filed affidavit in reply. In the affidavit, it is stated as under :-

"01.

02.

03.

04. The respondent no.2 Education Officer vide communication dated 22.03.2022 had directed the respondent no.3 and 4 to submit the proposal of the petitioner by calculating the Higher Grade Pay Scale to the Accounts Officer. The respondent no.3 and 4

submits that in view of the communication sent by the Education Officer, the respondent no.3 and 4 have forwarded the proposal of the petitioner to the Accounts Officer on 29.04.2022 and the same is pending with the Accounts Officer.”

The learned Counsel for Respondent Nos.3 and 4 reiterates the stand taken on affidavit.

9. In light of the affidavits filed by the Respondent-Education Officer and Respondent Management, the grievance of the Petitioner stands redressed. The statements made on affidavits by the Respondent-Education Officer and the Respondent Management are accepted.

10. The Respondents will proceed to take necessary steps as per law in furtherance of the release of necessary payments to the Petitioner.

11. Since the Petition is pending from 2014, we expect that the steps are taken early and if it is feasible to do so within a period of eight weeks from today.

12. Rule is made absolute in above terms. No costs.

(ANIL L. PANSARE, J.)

(NITIN JAMDAR, J.)

Deshmukh