

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

**WRIT PETITION NO.1429/2022**

1. Ramrao Poshati Telkatwar,  
aged about 67 Yrs., Occ. Retired Headmaster  
(Primary), R/o Petnarapur Galli, Near  
Venkatesh Talkies, Degloor 431 717,  
Dist. Nanded.

2. Dhondiba Gunaji Totwad,  
aged about 67 Yrs., Occ. Retired,  
Shivsai Soni Video, Near Naik Nagar,  
Nanded.

... Petitioners

- Versus -

1. The State of Maharashtra,  
through Secretary to the Govt. of  
Maharashtra, School Education and  
Sports Department, Mantralaya,  
Mumbai 400 032.

2. The Additional Commissioner,  
Tribal Development, Amravati, Near  
Police Commissioner's Office, behind  
TB Hospital, Amravati.

3. The Project Officer, Integrated Tribal  
Development Project, Pandharkawada,  
Dist. Yavatmal.

4. The Project Officer, Integrated Tribal  
Development, Kinwat, Dist. Nanded.

... Respondents

-----  
Mr. Mohan M. Sudame, Advocate for the Petitioners.  
Mrs. K.S. Joshi, Additional Government Pleader for Respondent  
Nos.1 to 4.  
-----

**CORAM : SUNIL B. SHUKRE AND  
G.A. SANAP, JJ.  
DATE : 19.9.2022**

**ORAL JUDGMENT** (Per Sunil B. Shukre, J.)

Heard. **Rule.** Rule made returnable forthwith.

Heard finally by consent of learned counsel for the parties.

2. The only reason why both the petitioners have been deprived of conferment of selection grade is that both of them, as per the requisite criteria prescribed under Government Resolution dated 1.2.1990, have not done their post graduate courses. However, it is an admitted fact that on the date of consideration of conferment of selection grade on the petitioners, the petitioners had completed 18 years of service. If this is so, the

case of the petitioners is covered by the exemption granted under clause 7 of the Government Resolution dated 1.2.1990. It may be made clear here that period of 18 years of continuous service required for seeking exemption from the criteria of higher educational qualification of post graduation has to be calculated in relation to the date or the year from which time the selection grade had to be conferred and not in relation to the date of the Government Resolution. The reason for holding so is that there is a Government Resolution dated 1.2.1990 which is still in operation and even today it confers the senior scale or selection grade on the eligible teachers and that this Government Resolution was not issued as a one time measure.

3. When the executive directions contained in a Government Resolution like Government Resolution dated 1.2.1990 have continuous and year to year operation, computation of requisite period of service, whether 12 years or 18 years, as the case may be, would have to be in relation to the date

or the year when it is decided to consider cases of such employees for conferment of senior scale or selection grade. Even in the Government Resolution dated 1.2.1990 nowhere it is stated that period of 18 years or 12 years, as the case may be, must be calculated up to the date of the Government Resolution i.e. 1.2.1990 or any other previous date.

4. Learned Additional Government Pleader has invited our attention to the Government Resolution dated 18.6.2008 which stipulates one date on which the concerned teachers must have completed 18 years of service. This date is of 1.1.1986. This Government Resolution, however, does not make any reference that this Government Resolution is in modification of the Government Resolution dated 1.2.1990 or in clarification of the Government Resolution dated 1.2.1990. That means Government Resolution dated 1.2.1990 is neither modified nor clarified nor superseded by the Government Resolution dated 18.6.2008 and it still holds field. Besides, the instructions

contained in the Government Resolution dated 18.6.2008 run contrary to the instructions contained in clause 7 of the Government Resolution dated 1.2.1990 as the Government Resolution dated 1.2.1990 does not make any artificial distinction between teachers who have completed 18 years of service prior to 1.1.1986 and those who have completed 18 years of their service after 1.1.1986. Thus, the Government Resolution dated 18.6.2008 will have no application whatsoever when it comes to the consideration of the cases of the teachers for conferment of senior scale or selection grade by granting them exemption from acquiring higher qualification of post graduation in terms of clause 7 of the Government Resolution dated 1.2.1990.

5. We find that the impugned order which makes no reference to the Government Resolution dated 18.6.2008 and which is solely based upon the instructions contained in the Government Resolution dated 1.2.1990 is illegal and cannot stand

the scrutiny of law and it deserves to be quashed and set aside and the matter needs to be remanded back to respondent No.2.

6. The petition is allowed. The impugned order is hereby quashed and set aside. The matter is remanded back to respondent No.2 for taking a fresh decision, in accordance with Government Resolution dated 1.2.1990 and after considering the observations made hereinabove. The decision shall be taken within a period of eight weeks from the date of receipt of the order.

7. Rule is made absolute in the above terms. No costs.

(G.A. SANAP, J.)

(SUNIL B. SHUKRE, J.)