

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10481 OF 2023

HIMAYUN BAIG SIKANDAR BAIG MIRZA
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS

...
Advocate for the Petitioner : Shri Ashish B. Hazari i/by Shri
Madake Datta A.

AGP for Respondent 1/State : Shri P.K. Lakhotiya
Advocate for Respondents 2 and 3 : Shri Sachin B. Munde

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CORAM : RAVINDRA V. GHUGE
&
Y. G. KHOBRAGADE, JJ.

DATE :- 24th August, 2023

Per Court :-

1. The Petitioner is the District Awardee Teacher, who
has put forth prayer clause B as under:-

“B) *By issuing writ of mandamus or any other appropriate writ, order or direction in like nature. The respondent No. 2 & 3 May Kindly be directed to grant/pay one additional increment to the petitioner from the date i.e. from 05.09.2010 of grant of "District Teacher Award" in view of circular dt. 12/12/2000 & 01.07.2022 issued by the State Government of Maharashtra and for that purpose issue necessary direction or order to the respondents.*”

2. The issue raised in this petition, fell for consideration before the Division Bench of this Court at the Principal Seat in Writ Petition (Stamp) No.3501/2021 filed by ***Laxman Pandurang Nikam and others vs. The State of Maharashtra and others*** and a group of petitions. It was concluded in paragraphs 2 to 8 as under :-

- “2. *Heard. The learned counsel for the Petitioners submits that the Petitioners in these Writ Petitions are the District Awardee Teachers prior to 04.09.2018.*
3. *For the first time, additional increment was given to the District Awardee Teachers under the Government Resolution dated 12.12.2000. Pursuant thereto, additional increments as per the said Govt. Resolution were given.*
4. *There are other categories of awardee teachers such as State Awardee Teachers, National Awardee Teachers and the award being given for excellent/ outstanding work. In the present case, we are concerned only with the District Awardee Teachers.*
5. *Upon perusal of various Govt. Resolution placed on record, it does not appear that prior to the Govt. Resolution dated 04.09.2018, there was any Govt. Resolution taking away benefit of the additional increment given to District Awardee Teachers. Of-course, now, no District Awardee Teacher would be entitled for the benefit in view of the Govt. Resolution dated 04.09.2018. However, Govt. Resolution dated 04.09.2018 cannot be given retrospective effect.*
6. *Govt. Resolution relied by the learned counsel for Zilla Parishad viz. Govt. Resolution dated 27.02.2009 is general in nature. It only states that the committee formed by the Govt. has*

made recommendation and the same is to be accepted with certain modifications. Under the Govt. Resolution dated 24.08.2017, Govt. has taken decision that the benefit of advance increment would not be available to those who were granted certificate of excellent work. It is under the Govt. Resolution dated 04.09.2018 now the benefit of additional increment to the District Awardee Teacher can not be given.

7. *However, all those who were granted certificate of District Awardee Teacher prior to 04.09.2018 cannot be denied the said benefit of additional increment.*

8. *In light of the above, we pass the following order:*

a. The Respondent / Zilla Parishad after confirming themselves of the Petitioners being District Awardee Teachers and awarded certificate prior to 04.09.2018 shall individually consider the case of the Petitioners for additional increment as is laid down under the Government Resolution dated 12.12.2000. The same shall be considered on its own merits expeditiously preferably within a period of six months and the Respondents shall communicate their decision to the Petitioner, in writing.

b. At the request of the learned counsel for the Petitioner in Writ Petition (ST) No.18924/2018, all office objections are dispensed with, except Court Fees.

c. All Writ Petitions stand disposed of accordingly.”

3. Identical orders were passed with relation to several other Zilla Parishads, out of which, the Chief Executive Officer, Zilla Parishad, Nashik, approached the Honourable Supreme Court in Petition for Special Leave to Appeal (Civil)

No.19730/2021. Vide order dated 13.04.2022, it was held as under :-

“It is not in dispute that, prior to 04.09.2018, the District Awardees were entitled to get the additional increment. It was only pursuant to the Circular dated 04.09.2018, the District Awardees were not entitled to get the additional increment. Therefore, for the period prior to 04.09.2018, the District Awardees were entitled to get the additional increment and therefore, no error has been committed by the High Court in directing the benefit of additional increment to the District Awardees for the period prior to 04.09.2018.

We are in complete agreement with the view taken by the High Court.

The Special Leave Petition stands dismissed.

Pending applications stand disposed of.”

4. The learned AGP submits that Review Petitions have been filed by the Zilla Parishads. This statement is confirmed by the learned Advocate representing the Zilla Parishad.

5. Having considered the order of the Honourable Supreme Court reproduced above, we do not find that the pendency of the Review Petitions could be an impediment for considering these petitions. The order of the Honourable Supreme Court is a speaking order and as such, we would

consider as to whether, the Review Petitions filed could be entertained by the Court.

6. In the light of the above, **this Writ Petition is partly allowed** with the direction to the Respondent/Zilla Parishads/concerned Authorities to verify and confirm that the Petitioner is the District Awardee Teacher, who has been awarded such certificate prior to 04.09.2018. After verifying this aspect, they would proceed to grant additional increment as is laid down in the circular dated 12.12.2000 to the Petitioner, who is the District Awardee Teacher. Let such exercise of verification and payment be made on or before 31.12.2023.

kps

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)