



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

WRIT PETITION NO.4909 OF 2008

Jadhav Shankar Ramchandra

Age : Adult, Occ. Service

R/o. Munjawad, Tal. Baglan,

Dist. Nashik

... Petitioner

Versus

1. The Dy. Director of Education

Nashik Region, Nashik Road, Nashik

2. The Education Officer,

(Secondary), Zilla Parishad, Near

Sarda Circle, Nashik Dist. Nashik

3. The Mahatma Jyotiba Phule

Education Society, a Registered

Public Trust, having its office

at Munjawad, Taluka Baglan,

Dist. Nashik

... Respondents

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Mr. A.R. Shaikh for the Petitioner.

Mr. S.B. Kalel, AGP for the Respondent-State.

Mr. R.M. Momin for Respondent No.3.

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**CORAM : SUNIL B. SHUKRE &
FIRDOSH P. POONIWALLA, JJ.**

DATE : 22 AUGUST 2023

ORAL JUDGMENT (PER : SUNIL B. SHUKRE, J.)

. The only issue involved in this Petition is about the date from which the pay scale applicable to B.Ed graduate Assistant Teacher

should be made available to the Petitioner. By impugned communication, this pay scale is being made available to the Petitioner with effect from 1 March 2005, although, it is the contention of learned Counsel for the Petitioner that the pay scale applicable to B.Ed graduate Assistant Teacher must be made available to them with effect from the date of their appointment or promotion to that post.

2 Learned Counsel for the Petitioner submits that the Petitioner was initially appointed as D.Ed Grade Assistant Teacher with effect from 31.08.1994 and later on he was promoted as B.Ed graduate Assistant Teacher vide promotion Order dated 02.07.1998 and such promotion was given effect to from 01.09.1998 and, therefore, the Petitioner was entitled to receive the pay scale of B.Ed graduate Teacher with effect from 01.09.1998, which has been denied to him.

3 We find great substance in the argument of learned Counsel for the Petitioner, although, learned AGP submits that the reason given in the impugned communication for not making available the said pay scale to the Petitioner with effect from 01.09.1998 is correct. In our opinion, the stand so taken by the Education Officer is wrong and contrary to basic principles of service jurisprudence.

4 Apart from what is stated above, there is no provision made in Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and Rules 1981 (for short “MEPS Act and MEPS Rules), which enable the Authorities to apply different kinds of pay scale to an Assistant Teacher, one pay scale applicable during the period from the date of initial appointment till the date of approval of the appointment and another pay scale applicable with effect from the date of approval of the appointment till continuation in service of the Assistant Teacher. Therefore, we find that the reason given by the Education Officer for denial of such benefit to the Petitioner, is contrary to law as well as basic principles of service jurisprudence.

5 The impugned communication states that the approval to the first appointment of the Petitioner made on 01.09.1994 was given on 15.10.1998, and, therefore, pay scale applicable to the post of B.Ed graduate Assistant Teacher, to which the Petitioner was promoted with effect from 01.09.1998, could not be given with effect from 01.09.1998. This reason is completely inconsistent with the principles of service jurisprudence inasmuch are not supported by any provisions made in the MEPS Act or MEPS Rules.

6 In these circumstances, we find that the impugned communication cannot stand the scrutiny of law and it must go. We also find that the Petitioner would be entitled to receive salary as per the pay scale applicable to the post of B.Ed graduate Assistant Teacher with effect from 01.07.1998.

7 Accordingly, the Petition is allowed. The impugned communication is hereby quashed and set aside. Respondent No.2 is directed to grant benefit of pay scale applicable to the B.Ed graduate Assistant Teacher to the Petitioner with effect from 01.09.1998 till the date, it was denied to the Petitioner. **Rule** is made absolute in the above terms with no costs.

(FIRDOSH P. POONIWALLA, J.)

(SUNIL B. SHUKRE, J.)