

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

Writ Petition No.2670/2023

Sau. Manisha and others V State of Maharashtra and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Mrs. S.S. Dashputre, Adv for petitioners.
Mr. N.R. Patil, AGP for resp. Nos. 1 and 2.

CORAM : AVINASH G GHAROTE, J.
DATE : 02-05-2023

Heard learned Counsel for the petitioners.

2. The petition questions the order dated 8-2-23 by which the respondent no.4 has been held to be senior to the petitioners. It cannot be a disputed position that for the purpose of stepping into category-C of Sch.-F of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981, the date of acquiring qualification is paramount. In the instant case, it is not disputed that the respondent no.9 who was appointed as Assistant Teacher on 09-07-99 had the qualification of B.Sc., B.Ed, however, on account of the fact that at the relevant time a vacancy was not available had given an undertaking that she will not claim benefit of stepping into category-C unless the vacancy arises. This would clearly indicate that soon as the vacancy arose, in category-C the respondent no.5, being duly

qualified would step into category-C. The petitioners have been appointed on 01-07-2000, 24-07-2000 and 03-09-2001, and though they possessed the due qualification at the time of their appointment the respondent no.5, already had the requisite qualification prior in point of time. Thus, when the vacancy arose in category- C, the claim of the respondent no.5, to the vacancy fructified on account of she already possessing the requisite qualification earlier in point of time. The ascension to the higher category, is automatic and therefore does not come in the way for the respondent no. 5, to be declared as senior to the petitioners who have entered the category subsequent in point of time. This position has duly considered by respondent no.2 while passing the impugned order.

3. I, therefore, do not see any reason to interfere in the order impugned in this petition. The petition is dismissed. No costs.

JUDGE