

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

WRIT PETITIONS (WP) 1163/2018, 1117/2018,
392/2018, 4181/2018 AND 4183/2018

WRIT PETITION (WP) 1163/2018

Ku. Vandana Vishweshwar Falke,
aged 55 yrs., Occu.- Service,
r/o Tirupati Balaji Apartments,
Chota Bazar, Chandrapur.

..... PETITIONER

// VERSUS //

1. The State of Maharashtra,
through its Secretary,
Department of School Education,
Mantralaya, Mumbai- 32.
2. The Director of Secondary and
Higher Secondary Education,
State of Maharashtra,
Central Building, Pune-1.
3. The Deputy Director of Education,
Nagpur Division, Nagpur.
4. The Education Officer (Secondary)
Zilla Parishad, Chandrapur.
5. Nehru Vidyalaya and Junior College,
through its Head Master,
Ghutkala, Chandrapur.

.... RESPONDENT(S)

WITH
WRIT PETITION (WP) 1117/2018

1. Vasant Maroti Werulkar,
aged 51 yrs., Occu- Service,
r/o Amar Vidyalaya, Amdapur,
Tal Chikhali, Dist. Buldhana.
2. Ram Damodar Yeole,
aged 46 yrs., Occu.- Service,
r/o Ward No. 2, Eklara,
Tal. Chikhali, Dist. Buldhana.

3. Kishor Ramesh Kharche,
aged 45 yrs., Occu.-Service,
r/o Dwaraka Nagar, Malkapur,
Dist. Buldhana.
 4. Rangnath Bhimrao Ugale,
aged 41 yrs., Occu. - Service,
r/o Mehkar Road, Kingaonraja,
Tal – Sindkhedraja, Dist. Buldhana
- PETITIONER(S)

// VERSUS //

1. The State of Maharashtra,
through its Secretary,
Department of School Education,
Mantralaya, Mumbai- 32.
 2. The Director of Secondary and
Higher Secondary Education,
State of Maharashtra,
Central Building, Pune-1.
 3. The Deputy Director of Education,
Amravati Division, Amravati.
 4. The Education Officer (Secondary)
Zilla Parishad, Buldhana.
- RESPONDENT(S)

**WITH
WRIT PETITION (WP) 392/2018**

1. Sanjay Ramchandra Ingle,
aged 40 yrs., Occu. - Service,
r/o House No. 3, Kastakar Sankul,
Hatekar Wadi, Mothi Umri, Akola.
2. Smt. Sheelatai Uttamrao Ganorkar,
aged 46 yrs., Occu- service,
r/o ward No. 31, Bhagyashree colony,
Shivaji College, Road, Akot, Dist. - Akola.
3. Surendra Pamchandra Ambuskar,
aged 43 yrs., Occu. - Service,

r/o At post Dahihanda,
Tal. Akola, Dist. - Akola

..... PETITIONER(S)

// VERSUS //

1. The State of Maharashtra,
through its Secretary,
Department of School Education,
Mantralaya, Mumbai- 32.
2. The Director of Secondary and
Higher Secondary Education,
State of Maharashtra,
Central Building, Pune-1.
3. The Deputy Director of Education,
Amravati Division, Amravati.
4. The Education Officer (Secondary)
Zilla Parishad, Akola.

.... RESPONDENT(S)

WITH
WRIT PETITION (WP) 4181/2018

1. Eknath Laxman Mathe,
aged 51 yrs., Occu.- service,
r/o Dange Nagar, Yashoda-2,
Nandura, Tal. Nandura, Dist. Buldhana.
2. Nandkishor Bhawarlal Pedwal,
aged 54 yrs., Occu- service,
r/o at post Amdapur,
Tal. Chikhali, Dist. Buldhana.
3. Gajendra Tulshiram Thakare,
aged 48 yrs., Occu- service,
r/o sambhaji Nagar, Ward No. 23,
Chikhali, Dist. Buldhana.
4. Smt. Farzana Parveen Ab. Rashid,
aged 44 yrs., Occu. - service,
r/o Iqbal Nagar, Buldhana.

5. Raju Pandurang Kalaskar,
aged 49 yrs., Occu.- Service
r/o kalaskar wadi, Dongaon,
Tal. Mehkar, Dist. Buldhana

6. Smt. Vijaya Eknath Etape,
aged 52 yrs., Occu. Service,
r/o Sambhaji Nagar, Buldhana

..... PETITIONER(S)

// VERSUS //

1. The State of Maharashtra,
through its Secretary,
Department of School Education,
Mantralaya, Mumbai- 32.

2. The Director of Secondary and
Higher Secondary Education,
State of Maharashtra,
Central Building, Pune-1.

3. The Deputy Director of Education,
Amravati Division, Amravati.

4. The Education Officer (Secondary)
Zilla Parishad, Buldhana.

5. Mahatma Fule High School,
Nimgaon, through its Head Master,
Tah. Nandura, Dist. Buldhana. 443001.

.... RESPONDENT(S)

**Amended as per Court's
order dt 16.07.2018**

WITH

WRIT PETITION (WP) 4183/2018

Suresh Ninu Patil,
aged 68 yrs., Occu. Retired
r/o Datala, Tal. Malkapur,
Dist. Buldhana

..... PETITIONER

// VERSUS //

1. The State of Maharashtra,
through its Secretary,
Department of School Education,
Mantralaya, Mumbai- 32.
2. The Director of Secondary and
Higher Secondary Education,
State of Maharashtra,
Central Building, Pune-1.
3. The Deputy Director of Education,
Amravati Division, Amravati.
4. The Education Officer (Secondary)
Zilla Parishad, Buldhana.
5. D.E.S. High School and Junior College,
Datala, through its Head Master,
Datala, Tl. - Malkapur,
Dist. Buldhana

.... RESPONDENT(S)

 Mr. B.G. Kulkarni, Advocate for the petitioners
 Mr. N.S. Rao, AGP for respondents 1 to 4

**CORAM : ROHIT B. DEO AND
Y.G. KHOBRAGADE, J.J.**

DATED : 13/02/2023

ORAL JUDGMENT : (PER:- ROHIT B. DEO, J.)

Rule. Rule made returnable forthwith. Heard finally by
 consent.

2. The issue involved is common and is not res integra.

3. Each of the petitioners is appointed as part time Librarian and is upgraded as full time Librarian. The grievance of the petitioners is that the petitioners are entitled to the status of full time Librarian with effect from the date on which the strength of the students became one thousand. The said submission is premised on the basis of Government Resolution dated 28.06.1994.

4. We may extract the chart which is made available to us by the learned Counsel for the petitioners, Mr. Kulkarni, showing the dates of appointments and the dates of according the status of full time librarian.

Sr. No.	Writ Petition No.	Petitioner	Date of Appointment as Part Time Librarian	Date of Granting Status as Full Time Librarian
01	1163/2018	Petitioner	12.11.1992	01.04.2006
02	1117/2018	Petitioner No. 1	01.07.1990	01.04.2006
		Petitioner No. 2	20.01.1995	01.04.2006
		Petitioner No. 3	19.01.1995	01.04.2006
		Petitioner No. 4	08.10.2001	01.04.2006
03	392/2018	Petitioner No. 1	31.03.1998	01.04.2006
		Petitioner No. 2	30.09.1996	01.04.2006
		Petitioner No. 3	16.11.1996	01.04.2006

04	4181/2018	Petitioner No. 1	23.02.1996	01.04.2006
		Petitioner No. 2	01.09.1994	01.04.2006
		Petitioner No. 3	21.08.1997	01.04.2006
		Petitioner No. 4	26.03.1998	01.04.2006
		Petitioner No. 5	02.09.1987	01.12.1997
		Petitioner No. 6	14.02.1994	01.04.2006
05	4183/2018	Petitioner	01.07.1991	01.04.2006

5. It is common ground that the issue is covered by several decisions of the Co-ordinate Bench, inter alia, by judgment dated 08.07.2019 in Writ Petition 1929/2019. We may extract the relevant observations in the said decision, which read thus:-

“4. It is not disputed that the petitioner was duly qualified and eligible for the post of Librarian in High School/High School with Junior College. The petitioner has produced communication dated 17.07.2017 of Education Officer showing the strength of students exceeded 1000 in the year 1999 – 2000. The petitioner contended that the controversy is well covered by the common order of this Court dated 28.01.2015 in Writ Petition Nos. 6630/2013, 6631/2013, 6481/2013 and in Writ Petition No. 1272/2015 along with Writ Petition No. 1278/2015 decided on 20.01.2016.

5. The facts emerge that the strength of the students was 1470 i.e. above 1000 students in the year 1999-2000. This Court in Writ Petition No. 1272/2015 along with Writ Petition No. 1278/2015 ruled in Para 6 to 8 as follows :-

“6. However, we find substance in the contention of the learned Advocate for the petitioner that once the post is upgraded

because of availability of more than 1000 students right from year 1994, the subsequent reduction in 2003-2004 or onwards cannot have any adverse effect on the grant of status as Full Time Librarian.

7. *While passing order on 28.01.2015, we have not given any arrears to the petitioners and for only notional fixation of their salary, the increments were directed to be notionally calculated.*

8. *We adopt the very same arrangement here. We direct that the notional increments shall be released in favour of the petitioner so as to work out their salary payable as on 01.02.2016. On account of such notional release, no arrears shall be payable to them. The notional exercise shall be valid only for the proposes of pay fixation, time bound promotion and pensionary benefits, as per the Rules.”*

6. *The petitioner's learned counsel conceded that the petitioner is entitled for notional pay fixation from the year 1999 and the consequential benefits. In view of the controversy settled by this Court as aforesaid mentioned, we have no hesitation to accept the same. However, the Education Department is very much entitled to verify the strength of students. We therefor, hold that the petitioner is entitled for grant of upgradation to the post of full-time Librarian from the effective date i.e. 01.07.1999. On account of such notional release, no arrears shall be payable to her. The notional exercise shall be valid only for the purposes of pay fixation, time bound promotion and pensionary benefits, as per Rules. The respondents shall release notional increments in favour of the petitioner so as to work out her salary as on 01.07.2019.”*

For reasons recorded in the said decision, and with which we respectfully agree, we are inclined to allow the petitions on similar lines.

6. The Education Officer is directed to verify the individual cases and to upgrade the status of the petitioners as full time librarian with effect from the date on which the strength of students became one thousand. We further hold the petitioners entitled to the benefit of notional pay fixation from the relevant date i.e. the date on which strength of students was one thousand and clarify that no arrears shall be payable. The notional increments shall be for the purposes of pay fixation, time bound promotion and pensionary benefits. The notional increments shall be calculated, factored in and the salary of the petitioners shall be fixed and released with effect from 01.03.2023.

7. The petitions are allowed in the aforestated terms.

(Y.G. KHOBRAGADE, J.)

(ROHIT B. DEO J.)

**SANDIP
MAHADEV
GATE**

Personal Assistant to the
Hon'ble Judge
Digitally signed by
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