



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

MISC. CIVIL APPLICATION NO. 766/2023 IN
LETTERS PATENT APPEAL NO.459/2011 IN
WRIT PETITION NO.5522/2010 (D)

Devidas Kawaduji Raghorte

Vs.

Bal Mandir Sanstha (Paranjpe School), Nagpur and Ors.

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

Court's or Judge's order

Mr. D. S. Thakur, Advocate for Applicant.

Ms. K. K. Pathak, Advocate for Non-applicant No.1.

Mr. S. A. Ashirgade, Additional Government Pleader for Non-applicant
Nos.2 and 3.

CORAM : A.S.CHANDURKAR AND MRS.VRUSHALI V. JOSHI,JJ..

DATED : 22.08.2023

. Heard.

2. The original petitioner in Writ Petition No.5522/2010 who was respondent No.1 in Letters Patent Appeal No.459/2011 seeks review of the judgment dated 30.09.2021 passed in the Letters Patent Appeal. Firstly, it is submitted that though the petitioner has been held entitled to the minimum of the pay scale applicable as prescribed under Schedule C of the Maharashtra Employees of Private School (Conditions of Service) Rules, 1981, he has not been granted any allowances in that regard. In support of his contention, reliance is placed on paragraph 61 of the judgment of the Hon'ble Supreme Court in *State of Punjab &*

Ors. Vs. Jagjit Singh & Ors. [(2017) 1 SCC 148] and the judgment in *Writ Petition No.175/2022 (Bhupendra Sinha and Ors. Vs. The State of Assam and Ors.)* of the Gauhati High Court decided on 03.05.2023.

The other ground is with regard to the correction of the date of the applicant's superannuation which has been recorded as 12.08.2018. According to the applicant, this date ought to be 12.08.2020.

3. The learned Counsel for the non-applicant No.1 submits that in the light of the reasons given while partly allowing the Letters Patent Appeal, it has been clarified that the applicant is entitled to be placed at the minimum of the pay scale applicable and prescribed under Schedule C. The applicant has not been held entitled to any increment or allowances. Paragraph 61 of the decision in **Jagjit Singh** (*supra*) relied upon by the applicant does not support that stand.

As regards correction in the date of superannuation, it is submitted that said correction is required to be made since the applicant's actual date of superannuation is 12.08.2020. In paragraph 9 of the reply, it has been stated that the amount due and payable to the

applicant would be accordingly deposited after making statutory deductions.

4. Having heard the learned Counsel for the parties and having perused the judgment under review, it is seen that while directing the placement of the applicant at the minimum of the pay scale applicable, benefit of increment and consequential allowances was denied. Paragraph 61 of the judgment in the **Jagjit Singh** in our view, does not refer to grant of any such allowances. In any event, we find that refusal to grant the amount of allowances cannot be treated as an error apparent on the face of the record to warrant exercise of review jurisdiction.

5. Accepting this statement made on behalf of the non-applicant No.1 that the date of superannuation of the applicant is 12.08.2020, the judgment under review needs to be corrected in the context of said date referred to in paragraphs 5(a), 6, 20 and 22(1) by replacing the date 12.08.2018 with the figure 12.08.2020. The judgment be corrected accordingly.

6. The statement made by the non-applicant No.1 in paragraph 9 of its affidavit in reply dated 11.08.2023 is accepted. It is open for the non-applicant No.1 to pay the

dues of the applicant to him directly.

7. With these observations, the Miscellaneous Civil Application is partly allowed and disposed of. No costs.

(MRS.VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)

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