

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

(1) WRIT PETITION 119/2018

Mrs. Sujata Narendra Vairale,
aged 44 yrs., Occu.- Service,
r/o Jalkekar Apartments,
Navodaya Vidyalaya, Ekvira Colony,
Amravati.

..... 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, Wardha.
5. Lokmanya Vidyalaya, Ashti,
through Head Master, Ashti,
Dist. Wardha.

.... RESPONDENT(S)

WITH

(2) WRIT PETITION 412/2018

Ku. Vandana Sadashiv Ilamkar,
aged 47 yrs., Occu- Service,
r/o Renuka Nagar, Gondia Road,
Amgaon, Tal. Amgaon, Dist. Gondia.

..... 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, Gondia.
5. Hariharbhai Patel High School and
Junior College, through its Head
Master, Chirchalbandh, Tal. Ambaon,
Dist. Gondia.

.... RESPONDENT(S)

WITH
(3) WRIT PETITION 6797/2018

Hemraj Ganpat Thakre,
aged 48 yrs., Occu. - Service,
r/o At Wadegaon, Post Satalwada,
Tal. Sakoli, Dist. Bhandara.

..... 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, Bhandara.
5. Krushnamurari Katakwar Vidyalaya
and Junior College, Sakoli through
its Head Master, Sakoli, Tal. Sakoli,
Dist. Bhandara.

.... RESPONDENT(S)

WITH
(4) WRIT PETITION 7270/2018

Sou. Sunanda Uttamrao Jadhao,
aged 48 yrs., Occu.- service,
r/o Mehkar Road, Sindkhedraja,
Tal. Sindkhedraja, 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. Jijamata Secondary and Higher
Secondary School, Sindkhedraja
through its Head Master, Sindkhedraja,
Tal. Sindkhedraja. Dist. Buldhana.

.... RESPONDENT(S)

Mr. B.G. Kulkarni, Counsel for the petitioners.

Mr. M.K. Pathan, Additional Government Pleader respondents 1 to 4.

(in all petitions)

Ms. Vidya Umale, Counsel for respondent 5. (in W.P119/2018)

Mr. A.Z. Jibhkate, Counsel for respondent 5. (in W.P412/2018)

Mr. Z.S. Shekhani, Counsel h/f Mr. Mohd. Ateque, Counsel for respondent 5. (in W.P6797/2018)

None for respondent 5 though served. (in W.P7270/2018)

CORAM: ROHIT B. DEO & MRS. VRUSHALI V. JOSHI, JJ.

DATE : 9.3.2023

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.

Item No.	Writ Petition Nos.	Date of Appointment as Part Time Librarian	Date of Upgradation as full time Librarian	Date from which entitled for upgradation as full time Librarian
1	WP119/2018	14.07.1995	01.04.2006	01.07.1998
2	WP412/2018	14.03.1995	01.04.2006	01.07.1996
3	WP6797/2018	01.07.1995	01.04.2006	01.07.2003
4	WP7270/2018	01.07.1995	--	01.07.1998

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 these 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.

(MRS. VRUSHALI V. JOSHI, J.)

(ROHIT B. DEO, J.)