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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1058 WRIT PETITION NO. 9039 OF 2023

RAHUL JAIWANT KARE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH IT'S SECRETARY AND
OTHERS

Mr.N.L.Chaudhari, Advocate for the Petitioners.
Mr.V.M.Kagne, AGP for Respondent Nos. 1 to 4.

(CORAM : RAVINDRA V. GHUGE AND
Y.G.KHOBRADE, JJ.)

DATE : JULY 24, 2024

PER COURT :

1. The issue raised in this Petition is no longer *res-integra*. The petitioners are praying for regularization and permanency in the Government Ashram Schools. This Court [Coram: S. V. Gangapurwala, ACJ (as His Lordship then was) & R. G. Avachat, J.] vide judgment dtd. 31st October, 2018 delivered in Writ Petition No. 5867 of 2015 filed by **Madhukar Bhagwanrao Sadgir V/s. State of Maharashtra and others** and vide the order dated 19th October, 2022 passed by this Court [Coram : Ravindra V. Ghuge & Sanjay A. Deshmukh, JJ.] in Writ Petition Nos. 8524 of 2022 filed by **Pandurang Hari Shelke V/s. State of**

Maharashtra and others with connected matters, concluded that those candidates who had completed 10 years, would be considered for regularization by the State of Maharashtra after conducting a verification exercise. To be specific, this court has held in paragraph nos. 9, 10 and 11 in the matter of Pandurang Hari Shelke (supra), as under : -

“9. In so far as the queries by the State Government are concerned, we observe as under:-

Query(a) Those employees who have not completed 10 years in continuous service in the light of the paragraph 21(i) and (iv), would not be entitled for the benefits, save and except in terms of any policy decision that the State Government would be introducing to deal with this entire issue in the State of Maharashtra.

Query(b) Considering paragraph 21(i) and (iv), those employees, who have presented their first appointment order and are out of employment for periods ranging from one year and above, or those are presently in employment with a gap and are not in continuous in employment, would not be entitled for regularization, save and except in terms of the policy that would be introduced by the State Government for such employees in the State of Maharashtra.

Query(c) Since the Government itself granted several concessions to the employees, those who could not work and discharge their duties due to Covid-19 pandemic lock down, would be considered to be in continuous employment during the Covid pandemic lock down period, provided they were in employment immediately prior to the lock down and

were also in employment immediately after withdrawal of lock own restrictions, inclusive of the vacation period.

Query(d) The answer to query (d) lies in paragraph 21(iii). For clarification, we would observe that those employees who have completed 10 years in employment and have filed their writ petitions later on, would be entitled for the monetary benefits either from 1.11.2018 or the date on which they completed 10 years, whichever is later. In cases where the candidates have preferred writ petitions, prior to completing 10 years in service, would be entitled for the regular pay scale/monetary benefits from 1.11.2018 or from the date they have completed 10 years of employment, whichever is later.

10. In view of the above, we deem it appropriate to direct further, with the consent of the petitioners, as under:-

- i) As the State Government has informed us, vide communication "Y", that the service details of all these petitioners, and similarly placed employees, in the State of Maharashtra, is being collected and verification would be completed by 21.10.2022, we grant further period to the State Government in order to avoid any mistake or discrepancy, to complete such exercise of verification, till 30.11.2022.
- ii) Pursuant to the above and our clarification set out in the foregoing paragraphs, read with the earlier orders, the State would prepare a list of eligible candidates and ineligible candidates. In so far as ineligible candidates are concerned, the State Government shall assign specific reasons in each case, concluding in the light of our orders, as to why they are held ineligible. The cases of those, who are held eligible, would be forwarded to the Competent

Government department of the State of Maharashtra for framing a policy to grant regularization to such candidates and thereafter issue orders of regularization, as expeditiously as possible and not later than 31.01.2023.

- iii) Those cases, which are found to be ineligible while verifying the record, if are found to be worthy of consideration in the light of the terms of any policy decision that State Government may introduce, we leave it to the State Government to take a decision with regard to such cases as well, preferably on or before 15.03.2023.
 - iv) After the entire exercise is completed and if any candidate from teaching or non teaching categories is found to be ineligible, specific orders rejecting their proposal would be passed and the said orders would be served upon such candidates on their last known address or through the institution, in which they are working on or before 15.4.2023.
11. In view of the above, those petitioners and similarly situated employees in the State of Maharashtra, who are in employment today, shall not be discontinued from employment only on the ground that they are temporary and their proposals are pending.”

2. In view of the above, the cases of those petitioners who have completed 10 years, would be covered by the above directions which are being implemented by the State Government. Those who have not completed 10 years, will have to wait till they fulfill the said requirement.

3. In view of the above, **this Writ Petition is partly allowed** only to the extent of Rahul Jaiwant Kare and Ashif Asad Shah, who have completed 10 years in service. The rest of the Petitioners, namely Maruti Devram Sukate, Manisha Bapu More and Balaji Annabhau Lobhe, have not completed 10 years and, therefore, no orders are passed in their matter. The directions reproduced in paragraph Nos. 10(i) to (iv) and 11 would be applicable to these two Petitioners.

4. In so far as the time frame is concerned, the direction at Clause 10(i) would be complied with on or before 31.08.2024. Clause 10(ii) reproduced above would be complied with on or before 31st October, 2024. Clause 10(iii) would be complied with on or before 30th November, 2024 and clause 10(iv) would be complied with on or before 31st December, 2024.

5. Needless to state, those candidates who have not completed 10 years in employment, would wait their turn and the Government can scrutinize their cases thereafter.

(Y.G.KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)