



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.12208 OF 2022

Santosh s/o Arvind Jangam,
Age-45 years, Occu:Service,
A/P and Taluka-Akole,
Dist-Ahmednagar.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through the Principal Secretary,
School Education Department,
Mantralaya, Mumbai-32,
- 2) The Education Officer (Secondary),
Zilla Parishad, Ahmednagar,
- 3) Hind Seva Mandal, Ahmednagar,
Through its Honorary Secretary,
Office: Bagadpatti Road,
Sarjepura City, Ahmednagar.

...RESPONDENTS

...
Mr. S.V. Natu Advocate for Petitioner.
Ms. R.P. Gour, A.G.P. for Respondent Nos. 1 and 2.
Mr. S.V. Dixit Advocate for Respondent No.3.

...
**CORAM: SMT. VIBHA KANKANWADI AND
S.G. CHAPALGAONKAR, JJ.**

DATE : 26th APRIL, 2024

JUDGMENT [PER SMT. VIBHA KANKANWADI, J.] :

1. Rule. Rule made returnable forthwith. Heard learned

Advocates appearing for the respective parties finally, by consent.

2. The petitioner challenges order dated 10th December 2021 issued by respondent No.2 and prays for directions to respondent No.2 to grant approval to the petitioner as full-time librarian with consequential benefits from 30th October 2014.

3. Heard learned Advocate Mr. Natu for the petitioner, learned AGP Ms. Gour for respondent Nos. 1 and 2 and learned Advocate Mr. Dixit for respondent No.3. In order to cut short, we would like to say that the learned Advocates appearing on behalf of the respective parties have argued in support of their respective contentions.

4. The factual matrix leading to the Petition are that the petitioner came to be appointed by respondent No.3 as part-time librarian and posted in Bharat Vidyalaya, Mirajgaon on 1st August 2009. His appointment was approved by the Education Officer by letter dated 29th December 2010. After completion of probation period of three years, regular pay-scale was approved and granted to the petitioner by respondent No.2 by order dated 15th January 2013. Thereafter the petitioner was promoted and

transferred by respondent No.3 from Bharat Vidyalaya to Modern High School, Akole by order dated 30th October 2014 on the post of full-time librarian. The said post has become vacant due to transfer of one Shri Dattatraya Nivrutti Narle. After his joining, the head master forwarded the proposal for approval of the said appointment of the petitioner on 11th November 2014. Necessary documents were also forwarded. The said proposal was kept pending but then reminder was issued on 13th March 2019. As per staff sanctioned, there is one sanctioned post of full time librarian at Modern High School, Akole, run by respondent No.3. On 10th December 2021 the said proposal came to be rejected on the ground that the up-gradation procedure is going on in respect of the post of part-time librarian to full-time librarian at the Government level and that the petitioner is junior in the seniority list of part-time librarians. The said impugned order is under challenge here.

5. It is to be noted that the learned AGP produced the copy of Government Resolution dated 13th April 2023 and submitted that it has been decided by the Government to upgrade the post of part-time librarian to full-time librarian, if the other conditions are satisfied.

6. In view of the said Government Resolution dated 13th April 2023, though it is stated in the impugned order that the petitioner is junior in the seniority list of part-time librarians, yet the same will not be a hurdle. In fact the Education Officer ought to have considered that there was no objection, as such, raised by anybody in respect of the transfer of petitioner from the post of part-time librarian to full-time librarian. The post of full-time librarian was vacant and therefore, approval ought to have been granted. Therefore, the impugned order dated 10th December 2021 deserves to be set aside. Hence the following order:-

ORDER

(I) The Writ Petition stands allowed in terms of prayer clause “(B)”.

(II) The arrears, if any, be paid in phased manner to be divided in six equal installments of having duration of three months and the first installment would be due on 13th May 2024.

(III) Rule is made absolute in the above terms.

[S.G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE