



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

**REVIEW APPLICATION NO. 237 OF 2023
IN
WRIT PETITION NO. 8625 OF 2021**

Smt. Tara d/o Rathunath Badgale

..PETITIONER

-VERSUS -

The State of Maharashtra
and others.

..RESPONDENTS

...
Advocate for the Petitioner : Shri V.D. Salunke h/f Shri M.V. Salunke
AGP for Respondents 1 to 3 : Shri V.M. Kagne
Advocate for Respondent 4 : Shri S.B. Solanke h/f Shri B.T. Bodkhe
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**CORAM : RAVINDRA V. GHUGE
&
SHIVKUMAR DIGE, JJ.**

DATE : 28th June, 2024.

Per Court :-

1. While hearing the learned advocate for the review petitioner, we have noticed that in paragraph 10 of the order dated 7th April, 2022 passed by this Court in Writ Petition No.8625/2021, Writ Petition No.4929/2004 was wrongly typed as Writ Petition No.4929/2003. The said error in paragraph 10 of our order dated 7th April, 2022 be corrected and the corrected order be uploaded.

2. Having heard the learned advocate Shri Salunke on behalf of the Review Petitioner and the learned advocates on behalf of the

Respondents, we find clarity in our order dated 7th April, 2022, more particularly, paragraph 7, 8, 9 and 10 as under :-

“7. We find from the record before us that the petitioner initially joined Indira Gandhi Kanya Vidyalaya, Dhamangaon, Taluka Ashti, District Beed, when the school did not have 100% grant-in-aid. It achieved the said status in 1995-1996. She was later on transferred to Jai Bhavani Vidyalaya, Jalgaon, Tq.Ashti, District Beed, in 1998. However, she was terminated by the Management and upon her reinstatement in service, the Management absorbed her in the new divisions in Jai Bhavani Vidyalaya, Jalgaon when the school did not have 100% grant-in-aid. In 2006-2007, it received 60% grant-in-aid at the 10th standard level as well as 5th standard level. In 2007-2008, it progressed to 80% grant-in-aid. In 2008-2009, it achieved 100% grant-in-aid. This is visible from the order issued by the Education Officer (Secondary), Zilla Parishad, Beed, dated 01.01.2009.

8. What intrigues us is that the petitioner was reinstated in service in such divisions, which did not have 100% grant-in-aid. The petitioner has averred in paragraph 5 that she was compelled to work on the divisions which were without grant-in-aid. Pursuant to her termination, the litigation journey was upto the High Court. She had preferred Writ Petition No.4929/2004 seeking 100% back wages and reinstatement as Headmistress of the Indira Gandhi Kanya Vidyalaya, Dhamangaon. The said petition is pending along with Writ Petition No.4346/2003 filed by the Management

for challenging the judgment dated 30.08.2003 delivered by the School Tribunal.

9. *Considering the above and in the light of the law laid down by the learned Full Bench in **Deshmukh Dilipkumar (supra)**, the petitioner, who has retired from Rodeshwar Vidyalaya, Dongargan, Taluka Ashti, District Beed, would be entitled for the old pension scheme.*

10. *In view of the above, this Writ Petition is disposed off. However, in the interest of justice, we deem it appropriate to record that if the petitioner succeeds in Writ Petition Nos.4929/2003 and 4346/2003 pending before the learned Single Judge Bench of this Court and if it is concluded that she deserved reinstatement as Headmistress of Indira Gandhi Kanya Vidyalaya, Dhamangaon, which was 100% grant-in-aid school prior to 01.11.2005 or if she is held to be entitled for reinstatement in the said school even as an Assistant Teacher on which post she was working at the relevant time, she may then be eligible for the old family pension scheme. We leave this issue open."*

3. The petitioner herself averred before us in paragraph 5 that she was compelled by the Management to work on 'no grant-in-aid' divisions. Since she was terminated, she had approached the School Tribunal, which granted her reinstatement in service with continuity. The Management preferred Writ Petition No.4346/2003, for challenging

the judgment of the School Tribunal, dated 30.08.2003. The Petitioner has preferred Writ Petition No.4929/2004 for seeking 100% back wages and reinstatement as Headmistress of Indira Gandhi Kanya Vidyalaya, Dhamangaon.

4. It is in the above backdrop, that we have observed in paragraph 10 of our order, that if the Petitioner succeeds before the learned Single Judge in the pending two Writ Petitions and it is concluded that she deserves to be reinstated as Headmistress of Indira Gandhi Kanya Vidyalaya, Dhamangaon, which was 100% grant-in-aid school prior to 01.11.2005, the Petitioner would be entitled for the old pension scheme.

5. Since this issue is kept open for the learned Single Judge to consider, this Review Petition is disposed off.

(SHIVKUMAR DIGE, J.)

(RAVINDRA V. GHUGE, J.)

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