



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

WRIT PETITION NO. 778 OF 2018

Pravin Rajesh Dhanvijay,
aged 47 years Occu.-Service,
R/o Sahyog Nagar, Behind Power
Grid, Jaripatka, Nagpur

} .. **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, Nagpur.
- 5) Nirala Vidyalaya, Nagpur through its
Head Master, Hansapuri, Nagpur

} .. **Respondents**

Mr. B.G.Kulkanri, Advocate for petitioner.

Mr. S.M.Ghodeswar, Assistant Government Pleader for respondent
Nos.1 to 4.

CORAM : NITIN W. SAMBRE AND
ABHAY J. MANTRI, JJ.

DATED : AUGUST 06, 2024

ORAL JUDGMENT (Per : Abhay J. Mantri, J.)

Rule. Rule is made returnable forthwith. Heard finally, with the consent of the learned counsel, appearing for the parties.

(2) By this petition, the petitioner is seeking relief to upgrade his post from Part Time Librarian to Full Time Librarian, with effect from 01/07/2007, in terms of Government Resolution dated 28/06/1994. The petitioner's case is that on 02/12/1996, he was appointed as a Part-Time Librarian in a recognised grant-in-aid school, i.e. respondent No.5 Nirala Vidyalaya, Nagpur. As per Government Resolution dated 28/06/1994, the schools with a strength of 1000 students or above were entitled to one Full Time Librarian post. Therefore, the petitioner was entitled to the same status with effect from 01/07/2007; since 2007-2008, the strength of the students was more than 1000. However, the State Government was in total breach of provisions of the Government Resolution dated 28/06/1994 and failed to direct the upgradation of the petitioner as a full-time librarian. According to him, the said issue is covered by the judgment passed in ***Writ Petition No.6630/2013*** (*Kiran Girhe & Ors, V/s State of Maharashtra & Ors.*) with connected petitions. Therefore, he urges for allowing the petition.

(3) Mr.Ghodeswar, learned Assistant Government Pleader, does not dispute in principle that the matter is covered. However, he

states that the facts should be allowed to be verified in accordance with the law. He further submitted that as per the Government Resolution dated 13/04/2023, the pay fixation is permissible only from that date and the same is due to policy framed by the State Government. He has also drawn our attention to Clause (7) of the Government Resolution dated 13/04/2023.

(4) Learned Assistant Government Pleader further canvassed that even otherwise, the petitioner is not claiming back-wages to avoid the financial burden on the State Exchequer, as stated in para 8 of the petition. Hence, it was submitted that the Court may pass an appropriate order.

(5) We have appreciated the rival submissions and perused the record and order in W.P. No.6630/2013 (*Kiran Girhe & Ors, V/s State of Maharashtra & Ors.*)

(6) It is undisputed that the petitioner has been appointed as a Part-Time Librarian since 02/12/1996 and from 2007-2008 the total number of students in the said School was above 1000. Therefore, as per the Government Resolution dated 28/06/1994, the petitioner is entitled to upgrade his post from Part-Time Librarian to Full-Time Librarian with effect from 01/07/2007.

(7) The petitioner, in paras 8 and 18 of the petition, contended that he is not claiming back-wages, para 18 reads thus :

“18. In light of the circumstances stated above, the prayer of the petitioner that :

- a) The petitioner be granted upgradation as a full-time Librarian retrospectively from the date when the school became eligible for the post (namely, 01.07.2007).*
- b) that the placement/fixation of salary be effected accordingly from the date of upgradation as full-time Librarian and other benefits of time-bound promotion be made applicable.*
- c) That the entire length of service be treated as continuous service and pensionary benefits, be granted to the petitioner on that basis by taking into account half of the part-time service.*
- d) **However, the back wages may not be ordered to avoid the financial burden on the state exchequer.”***

(8) On bare perusal of the above para, it seems that, the petitioner is only claiming an upgradation of his service as a Full-Time Librarian with effect from 01/07/2007 when the total strength of students was above 1000. In said paragraph, he has categorically stated that back-wages may not be ordered so as to avoid financial burden on the State Exchequer, but he claims that his services should be treated as continuous service and pensionary benefits should be granted to him in accordance with law.

(9) Thus, it is apparent that the issue raised in the petition is

no more *res integra* as the said issue has already been decided by this Court in Writ Petition No.6630/2013 along with the connected petitions. As such, from 02/12/1996 to 30/06/2007, the petitioner's service was a Part-Time Librarian. The petitioner's length of service from 02/12/1996 to 30/06/2007 was **10** years, **06** months and **28** days. Therefore, it would be obligatory for the respondents to convert the earlier part-time service of the petitioner into full-time service of 05 years, 03 months and 14 days and to club the said services with full-time services while calculating the qualifying service for pensionary benefit. He is also entitled to upgrade to Full-Time Librarian w.e.f. 01/07/2007.

(10) Consequently, in our opinion, in view of the order passed in Writ Petition No.6630/2013 with connected petitions, Government Resolution dated 28/06/1994, and facts of the case, the petitioner is entitled to the relief as prayed. In the aforesaid background, we deem it appropriate to partly allow the petition in terms of prayer clause (ii).

(11) Rule accordingly. No order as to costs.

[ABHAY J. MANTRI, J.]

[NITIN W. SAMBRE, J.]