



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.**

WRIT PETITION NO.295 of 2024

Zaki Ahesan Khan Raghiv Ahesan Khan **Petitioner**

versus.

Deputy Director of Education, Amravati Division,
Amravati, and another.

.... **Respondents**

Mr. P. S. Patil, Advocate for petitioner.

Ms N. P. Mehta, Additional Government Pleader for respondent no.1.

.....

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

DATE :- 12th AUGUST, 2024

P. C.

Heard.

2. The petitioner was appointed on 01.12.2015 as a 'Laboratory Assistant' for which an approval was granted on 28.06.2022 by the respondent-Deputy Director of Education, Amravati Division, Amravati.

3. The denial of the monetary benefits for the period from 01.12.2015 till the date of issuance of the order of approval dated 28.06.2022 is sought to be justified based on the Government Resolution dated 10.06.2022.

4. The said Government Resolution contemplates within a period of three months from the date of its issuance all the pending cases in relation to grant of approval in old matters be dealt with by calling proposal from Management.

5. The said GR dated 28.06.2022 is formed by Deputy Director to be the basis for denying the monetary benefits to the petitioner.

6. The fact remains that vide approval order dated 28.06.2022 the Deputy Director of Education dealt with the proposal for grant of approval and release the monetary benefits forwarded by the Management received by the said office on 13.07.2021 i.e. prior to the issuance of Government Resolution dated 10.06.2022. Even otherwise, second proposal in relation to the services of the petitioner was received on 12.08.2022 i.e. before the expiry of three months period as prescribed in the Government Resolution dated 10.06.2022.

7. In such an eventuality, forming the basis of time limit from the Government Resolution dated 10.06.2022 for denying the monetary benefits to the petitioner cannot be said to be sustainable as the Deputy Director of Education cannot be said to be armed with the powers to deny the benefits by interpreting the Government Resolution dated 10.06.2022 with retrospective effect contrary to the terms mentioned therein. From the dates which are taken into account by the Deputy Director of Education for grant of approval in favour of the petitioner, it can be noticed that such proposals were submitted either prior to the period prescribed or in tune with the time frame provided in Government Resolution dated 10.06.2022.

8. In that view of the matter, in our opinion, the petitioner is entitled for the monetary benefits from the date of his appointment which is duly approved.

9. That being so, we deem it appropriate to direct the respondent-Deputy Director of Education to extent/release all the monetary benefits in favour of the petitioner from the date of his appointment and not from the date of order of approval. The benefits be released in favour of the petitioner within a period of two months from the date of this order.

The writ petition stands allowed in aforesaid terms. No costs.

10. From the conduct of the Deputy Director of Education what can be noticed in respect of claim in this petition is, the proposals were received by the Deputy Director of Education well within time as has been prescribed in the Government Resolution dated 10.06.2022 but he has taken an incorrect/false stand for denying the lawful benefits to the petitioner as could be inferred from the aforesaid observations. The intention of the Deputy Director of Education who has passed the impugned order based on false reasons has not only deprived the petitioner of his legitimate right but has also given rise to creating unwarranted litigation. Such conduct has resulted into causing hardship to the petitioner.

11. That being so, issue show cause notice to the Deputy Director of Education, Amravati Division, Amravati, as to why the amount of interest @11% per annum be not directed to be paid to the petitioner on the delayed payment and such interest be not recovered from his salary with an adverse entry in his service record.

12. We expect the response of the Deputy Director of Education, within a period of two weeks from today.

13. Post the matter only for reporting compliance on **03.09.2024**.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

Andurkar.