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

CIVIL APPLICATION (W) NO. 1382/2024

IN

WRIT PETITION NO. 3416/1999

Devi Punwani

...VERSUS...

State of Maharashtra & others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. A.M. Ghare, Advocate for the Applicant/Petitioner(s)

Mr. N.R. Patil, AGP for the Respondent/State

Mr. R.B. Deo, Advocate for the Respondent No. 4

CORAM :- AVINASH G. GHAROTE & SMT. M.S. JAWALKAR, JJ.
SEPTEMBER 03, 2024

(1) The present Application is filed for condonation of delay in filing the Application for restoration and recalling of the order dismissing the Petition in default. The Petitioner/Applicant filed Petition for grant of revised pay-scale equal to the Class Room Teachers and similar other Petitions were also filed i.e. Writ Petition Nos. 1757/1995 and 2607/1999. The present Petition was tagged with those Petitions. The challenge was to the Government Resolution dated 04/07/1994 and the order dated 26/09/1997.

(2) It is the contention of the Applicant that Mr. Moti Punwani, brother of the Applicant used to coordinate with the learned Counsel

for the Applicant. However, Mr. Moti passed away on 23/02/2008. Thereafter, there was no contact between the Applicant and the Counsel. In view of the interim order passed by this Court, she was under the bonafide impression that present Writ Petition would be taken for final hearing along with Writ Petition Nos. 1757/1995 and 2607/1999. On 22/08/2014, the Applicant got knowledge that the matter came to be dismissed in default. Subsequently, the impugned Circular stood withdrawn by the State Government by the Government Resolution dated 31/10/2002 which restored the position of the Circular of 06/01/1990 on granting benefit of pay-scale of Rs. 3000-5000 in terms of the regular service rendered by person from the date of initial appointment. The said GR was upheld by this Court in a bunch of Writ Petitions. In spite of the fact that there was no order of de-tagging, the present Petition was not heard along with the other Petitions. Hence, the Applicant is also entitled for same benefit.

(3) As such, delay in filing the Application is justified and reasonable. There is no serious objection by the learned AGP to condone the delay and restore the Petition as the issue is covered by the judgment passed in Writ Petition No. 2607/1999 (Prakash Daulatrao Deshmukh & others vs. The State of Maharashtra & others) dated 31/08/2004.

(4) For the reasons stated in the Application, the Application is **allowed**. Delay is hereby condoned. The order passed by this Court on 22/08/2014 is hereby recalled. Registry is directed to restore the Writ Petition on its original number.

(5) The Application stands **disposed of**.

WRIT PETITION NO. 3416/1999

(6) The issue involved in the present Writ Petition is covered by the judgment passed in **Writ Petition No. 2607/1999 (Prakash Daulatrao Deshmukh & others vs. The State of Maharashtra & others) dated 31/08/2004**.

(7) There is no dispute by the learned AGP on this count. However, as far as the delay from 2014 to 2024 is concerned, the Petitioner will not be entitled for any interest on payment for the said delayed period.

(8) In this view of the matter, the Writ Petition is **allowed** in terms of the judgment passed in Writ Petition No. 2607/1999. We quash and set aside the impugned letter dated 04/07/1994 and declare that the Petitioner is entitled to claim the benefit made available under the

Circular dated 06/01/1990. This exercise of release of payment shall be completed within a period of six weeks from today.

(9) The Petitioner shall co-operate with the concerned Department, if any assistance is required.

(10) The Writ Petition stands **disposed of** in the above terms. Pending Application(s), if any, stand(s) disposed of.

(SMT. M.S. JAWALKAR, J.)

(AVINASH G. GHAROTE, J.)