



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

901 REVIEW APPLICATION (CIVIL) NO. 143 OF 2025
IN
WP/7890/2019

Narsing Ramrao Shinde
VERSUS
Shaikh Jabbar Bahadur And Ors

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Advocate for Applicant : Mr. S.S. Shinde
AGP for Respondents: Mrs P. R. Bharaswadkar
Advocate for Respondent 1 : Mr. V. D. Gunale
Advocate for Respondent 3 : Mr. P. R. Tandale
Advocate for Respondent 4,5 : Mr. V. G. Kodale

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WITH
CIVIL APPLICATION NO. 8999 OF 2024 IN RA/143/2025

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

Dated : July 16, 2025

ORDER :-

1. The applicant seeks review of the order dated 22.2.2024 passed by this Court in Writ Petition No.7890 of 2019, by which respondent no.1(original petitioner) is directed to confer pay scale of primary graduate teachers in terms of the proposal dated 13.2.2019 forwarded by the Management.

2. In nutshell, facts leading to the present review petition can be stated as under :-

Respondent no.1 and applicant were appointed on 13.6.1994 as untrained teachers on the establishment of respondent no.4-School. Respondent no.1 acquired D.Ed. Qualification on 3.5.2002. Applicant acquired D.Ed qualification on 31.12.2002. However, Management of the school treated applicant as senior and forwarded proposal for grant of graduate pay scale. On 13.2.2002 Education Officer passed an order treating respondent no.5 as Senior Teacher on the basis of date of acquisition of qualification as well as date of birth. The order dated 13.2.2022 passed by the Education Officer declaring respondent no.1 as Senior most teacher has attained finality.

3. In light of the aforesaid facts, writ petition no.7890 of 2019 filed by respondent no.1 is allowed directing Education Officer to confer pay scale of Primary Graduate teacher to respondent no.1 and release consequential benefits. The review applicant was party respondent in that writ petition.

4. Mr. Shrikishan Shinde, learned advocate appearing for the applicant submits that by order dated 18.10.2003 passed by the Education Officer, applicant was declared as

senior teacher. Eventually, senior pay scale was approved vide order dated 18.6.2004. However, after 13 years, claim of respondent no.1 as to seniority has been approved and senior pay scale is conferred upon him. Consequently, benefit of senior pay scale granted in favour of applicant in the year 2004 will be withdrawn as there is only one post in senior pay scale on the establishment of the school.

5. Mr. Shinde, would further submit that when seniority was fixed by Education Officer under his order dated 18.10.2003, break in service of respondent no.1 in the year 1996-1997 was considered. Later on by order dated 4.1.2017, competent authority condoned break in service and on the basis of said order, Education Office recorded finding that respondent no.1 is a senior teacher. According to Mr. Shinde, on the basis of aforesaid subsequent event, benefit conferred upon the applicant since 2004 cannot be disturbed.

6. Per contra, learned advocate appearing for respondent no.1 submits that seniority of respondent no.1 vis-a-vis the applicant cannot be challenged; since it is in tune with the provisions of Maharashtra Employees of Private School (Condition of Service) Regulation Act, 1977 and rules

thereunder, 1981 (for short MEPS Rules). Further, the order fixing seniority between applicant and respondent no.1 has attained finality. As such, there is no ground for review.

7. We have considered submissions advanced by learned advocates appearing for respective parties. Admittedly, applicant was party to the writ petition. This Court, after considering rival contentions passed final order in the writ petition. This Court has specifically observed that the issue of seniority has attained finality under order dated 13.2.2022 passed by the Education Officer. This Court further observed that order of Education Officer is in consonance with the MEPS Rules, 1981. It is observed that respondent no.1 has acquired D.Ed. Qualification in May, 2002, lateron applicant acquired such qualification on 31.12.2002. As per Rule 2 (k) of MEPS Rules, 1981 the date of acquisition of qualification is material for deciding the issue of inter-se seniority where initial date of appointment of employees is one and the same, Rule 12 of the MEPS Rules alongwith the Schedule "F" also prescribes that seniority has to be reckoned from the date, teacher either achieves the qualifications required or improves his qualification as a trained teacher.

8. So far as contention of the applicant that he was already granted benefit of senior pay scale and that is going to be disturbed as a consequence of the order under review. This Court do not find merit. If respondent no.1 is a senior teacher and entitled for benefit in terms of Rules, only because such benefit was conferred upon the applicant at earlier point of time, that cannot be a ground of review. WE find that while considering application of review, unless parameters laid down under order 47 Rule 1 read with section 114 of the Civil Procedure Code are made out, review application cannot be entertained. The applicant cannot be permitted to re-agitate and re-argue the questions which have already been addressed and decided. We do not find any error apparent in the findings recorded. Even, we do not find mistake or error of fact, which would have a bearing on our decision making process. In the result, review application sans merit, hence **dismissed**. Pending civil application, if any, also stands **disposed off**.

(S. G. CHAPALGAONKAR, J.) (SMT. VIBHA KANKANWADI, J.)

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