



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3971 OF 2013

Miss Kirti Shriramji Kabra alias
Mrs. Kirti Amit Baheti
Age 30 years, Occ. Service,
Residing at C/o Ramesh
Gulabchand Baheti,
Karkhana Road, At Post &
Taluka Akole,
District Ahmednagar

... PETITIONER

VERSUS

- 1) The State of Maharashtra
Dept. of School Education,
Mantralaya, Mumbai
(through its Secretary)
2. The Dy. Director of Education,
Pune Region, 17,
Dr. Ambedkar Road,
Pune - 411 001
3. Hind Seva Mandal,
Pemraj Sarda College Campus,
Ahmednagar
(through its Secretary)
4. The Principal,
Modern High School & Junior
College of Science, Arts &
Commerce, Akola Taluka Akole,
District Ahmednagar

... RESPONDENTS

.....

Mr. V.P. Golewar, Advocate for Petitioner
Mr. A.B. Girase, Govt. Pleader for respondent No.1 – State
Mr. S.S. Dixit, Advocate for respondent No.4

:: 2 ::

.....

CORAM: ALOK ARADHE, CJ. &
RAVINDRA V. GHUGE, J.

DATE: 18th MARCH, 2025.

ORAL JUDGMENT (PER : CHIEF JUSTICE) :

1. Rule. Rule is made returnable forthwith. By consent of the learned Counsel for the parties, the Writ Petition is heard finally.

2. In this Writ Petition, the Petitioner *inter-alia* seeks a direction to Respondents No.3 and 4 to pay salary to the Petitioner as per the prescribed pay-scale w.e.f. 16/6/2008. The Petitioner, in addition, seeks a direction to the Respondents to make the payment of difference of the salary as per the prescribed pay-scale.

3. Facts giving rise to the filing of this Petition in nutshell are that, the Respondent No.3 Hind Seva Mandal, Ahmednagar is a Society which runs and manages an educational institute namely Modern High School and Junior College of Science, Arts & Commerce in Akole, District Ahmednagar. The aforesaid institution receives 100% grant-in-aid from the State Government. The Petitioner has

acquired the Master's degree in Physics as well as Bachelor's degree in Science.

4. The Petitioner, on 16/6/2008, was appointed as a Part Time Teacher to impart education in Science subject to the students of the 11th Standard. The Petitioner continued in employment up to the academic session 2013-2014. According to the Petitioner, she was paid a fixed remuneration and not the pay-scale of the post of Assistant Teacher, namely Rs.950-1500. Hence this Petition.

5. The learned Counsel for the Petitioner submitted that, the Petitioner served the Respondent No.3 institution for the academic session 2008-2009 to 2013-2014. However, the pay-scale prescribed under the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (hereinafter referred to as the 1981 Rules), have not been paid to the Petitioner. The learned Counsel for the Petitioner has referred to a communication dated 13/11/2013, sent by the Education Officer, Zilla Parishad, Ahmednagar to the Deputy Director of Education, Pune, in which a recommendation has been made that the Petitioner be paid the pay-scale. It is, therefore, submitted that the

Respondents be directed to make payment of the amount due to the Petitioner for the period from 2008-2009 to 2013-2014 as per the pay-scale prescribed in the Schedule appended to the 1981 Rules.

6. On the other hand, the learned Counsel for Respondents No.3 and 4 submitted that the Petitioner was initially appointed on a fixed remuneration of Rs.2500/-, which was revised to Rs.3000/-. He further submitted that, the Petitioner was appointed against Part Time vacancy and was not appointed as per Section 5 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (hereinafter referred to as the Act of 1977). It is further submitted that, even according to the Petitioner, her services had been terminated w.e.f. 1/5/2015 and the order of termination of services has been upheld by the School Tribunal, Pune Region, Solapur. The learned Counsel for Respondents No.3 and 4 has produced a copy of the order passed by the School Tribunal before us, which is taken on record. Our attention has been invited to the findings recorded by the School Tribunal in paragraph No.29

of its order dated 25/2/2019 and it is pointed out that the aforesaid order has attained finality.

7. We have considered the rival submissions made by learned Counsel for both the sides and have perused the record. Even according to the Petitioner, her services were terminated by Respondents No.3 and 4, on 1/5/2015. Being aggrieved, the Petitioner had filed an Appeal under section 9 of the Act of 1977 before the School Tribunal, Pune Region, Solapur. The Tribunal, in paragraph No.29 of its judgment, has recorded a finding that the Petitioner had not produced any material on record to show that she was recruited in accordance with the procedure prescribed under Section 5 of the Act of 1977. The Petitioner did not produce any order of appointment issued in her favour as Assistant Teacher. Therefore, the Tribunal concluded that the Petitioner was not appointed against a sanctioned post as a Full Time Teacher.

8. It is trite that in order to claim the pay-scale as prescribed under the 1981 Rules, an employee has to demonstrate that he or she has been recruited in the manner prescribed under Section 5 of the 1977 Act. In this petition also the Petitioner has failed to produce either her letter of

appointment or any material to indicate that she was appointed against a sanctioned vacancy of Full Time Teacher in accordance with Section 5 of the Act of 1977. The Petitioner, therefore, is not entitled to the pay-scale as claimed by her in this Writ Petition.

9. At this stage, it is pointed by the learned Counsel for the Petitioner that, the judgment and order dated 25/2/2019, passed by the School Tribunal has been challenged by the Petitioner in Writ Petition No.5119/2020. In view of the aforesaid submission, it is clarified that the findings recorded in this order have been recorded only for the purposes of deciding the claim of the Petitioner with regard to pay-scale and shall have no bearing with regard to her claim for her service.

10. In view of the preceding analysis, we do not find any merit in the Petition. The Petition fails and is hereby dismissed. Rule discharged.

(RAVINDRA V. GHUGE, J.)

(CHIEF JUSTICE)