



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

WRIT PETITION NO.8157 OF 2018

PETITIONER :- Dinkar Garmak Rathod,
Aged – 50 years, Occupation- Service,
Residing at Adarsh Colony, Akola,
Maharashtra.

..VERSUS..

RESPONDENTS :- 1) Education Officer (Secondary) Akola Zilla
Parishad Having his office at Zilla
Parishad Akola, Maharashtra.
2) Deputy Director of Education Amravati
Division Having his office at Amravati,
Maharashtra.
3) Director of Education Secondary and
Higher Secondary Directorate of
Education Having his office at Pune State
of Maharashtra

Mr.N.B. Rathod, Advocate for Petitioner.
Mr. H.R. Dhumale, A.G.P. for the Respondents/State.

CORAM : ANIL S. KILOR AND
VRUSHALI V. JOSHI, JJ.

DATE : 31/07/2025

ORAL JUDGMENT : (Per : Anil S. Kilor, J.)

1. Heard.

2. **Rule.** The Rule is made returnable forthwith. Heard finally by consent of learned counsel for the respective parties.

3. In the present petition, the relief is sought for direction to the respondent No.1-Education Officer to treat the period from 01.07.1998 till 25.11.2013 as period spent on duty thereby granting continuity in services and also for direction to give all consequential benefits to the petitioner including restructuring in the salary and granting all the increments as the petitioner was never a surplus employee and backwages with interest for the said period, gratuity and provident fund.

4. The brief facts of the present case are as under:-

That the petitioner was appointed on permanent post on 01.07.1992 as 'Junior Clerk' and approval was granted to his appointment on 22.03.1994 by the respondent. On 21.06.1997, the school got de-recognized and thereafter, there was no action on the part of the respondents to absorb the petitioner, which constrained the petitioner to file Writ Petition No.5020 of 2012, for the relief of absorption. After the direction of this Court, the petitioner was absorbed on 26.11.2013, but while in service, he was treated as a new employee in the pay band.

5. One of the employee from the same school namely Vijay Ramchandra Ambhore, approached to this Court by filing Writ Petition No.2103 of 2019, claiming similar relief. This Court while allowing the said writ petition has observed thus :-

“5. We have perused the affidavit filed by the Education Officer, Secondary, Zilla Prishad, Akola. Paragraph 5 of the said affidavit is reproduced below:

“5. I humbly, submit that the school where the petitioner was appointed initially was de-recognized without any fault by the petitioner, therefore, the petitioner is entitled for grant of deemed dated i.e. from 21/06/1997 and the pay scale can be fixed accordingly from 11/07/2013 and is entitled for continuity of service from 21.06.1997. In the order dated 28/03/2024 passed by the Hon’ble High Court in Writ Petition No.5020 of 2012, there was no direction to grant continuity of service, however, in view of the recent law laid down by the Hon’ble High Court in the Writ Petition No.5180 of 2024, the petitioner is entitled for continuity of service.

In the circumstances herein above, the instant petition deserved to be disposed of accordingly.

6. As a sequel of above, it will be appropriate to grant continuity of service to the petitioner from 01/07/1998 to 10/07/2013 as his services stood absorbed from 11/07/2013.

7. We must make it clear that the aforesaid continuity shall be considered for the purpose of calculating pensionary benefits.

8. However, having regard to the fact that the School in which the petitioner was working was de-recognized and his services were not absorbed till 11/07/2013 whereafter, he was paid regular salary, the consequential rise in the salary pursuant to grant of continuity referred above shall be released in favour of the petitioner within a period of four months from today. We make it clear that the petitioner shall not be entitled for any salary from 01/07/1998 to

11/07/2013 as a sequel the quantum of pension to which petitioner is entitled in view of grant of continuity as directed above be reassessed and paid within four months from today.”

6. Since the petitioner is from the same school and considering the similar facts, we are of the opinion that, the said order will apply to the present petition with full force. Accordingly, we pass the following order :-

- i) The writ petition is **allowed**.
- ii) The respondent No.1 is directed that the petitioner be considered in service from 01.07.1998 till 25.11.2013 and this period be considered as period spent on duty thereby, granting continuity in service with all consequential benefits to the petitioner including restructuring the salary and granting all the increments as if the petitioner was never a surplus employee.
- iii) However, we make it clear that, the petitioner shall not be entitled any salary from 01.07.1998 till 25.11.2013 and we further directed that, the quantum of pension to

which the petitioner is entitled in view of the grant of continuity as directed above be reassessed.

- iv) The difference in salary, after giving notional effect, shall be paid to the petitioner within **six months** from today.

Rule is made absolute in above terms. No costs.

(VRUSHALI V. JOSHI, J.)

(ANIL S. KILOR, J.)

C.L. Dhakate