



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

3 WRIT PETITION NO. 392 OF 2025

Sarjerao Sahebrao Kharat

VERSUS

The State Of Maharashtra Through The Secretary And Others

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Mr. Dhananjay Mane h/f Mr. Milind M. Patil - Advocate for the Petitioner

Mr. S. B. Narwade - AGP for State

Respondent Nos. 4 to 8 served.

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CORAM : SMT. VIBHA KANKANWADI

AND

HITEN S. VENEGAVKAR, JJ.

DATED : 09TH FEBRUARY, 2026

ORAL ORDER [*Per* Hiten S. Venegavkar, J.] : -

1. The present petition is for declaration that the Petitioner is entitled to be promoted to the post of Headmaster of Dr. Babasaheb Ambedkar Vidyalaya, Jawaharbag, Jalna, with further directions to Respondents to appoint him to the post of Headmaster with immediate effect from the date of such declaration. Alternatively, it is prayed that, the Respondent authorities be directed to decide the claim of the Petitioner for the post of Headmaster of the said School within a period of fifteen days from such directions.

2. Though the Petition was filed seeking the aforesaid reliefs, during the pendency of the Petition, the Petitioner retired on

superannuation on 31.12.2025. Therefore, the learned Advocate for the Petitioner submits that if the aforesaid reliefs are granted, the Petitioner would be entitled to consequential pensionary and pecuniary benefits even after retirement.

3. The Petitioner states that he was working as an Assistant Teacher in Respondent No. 5 – School since 01.12.1993, and his services have been regularized in accordance with law. The Petitioner further states that, when the seniority list was initially prepared by Respondent No. 5, his name appeared to be at serial number 3. However, two of his senior employees were no more in the run on account of one had opted for voluntary retirement while the other had declined promotional benefits. Thus, according to the Petitioner, he became the senior-most in the seniority list and was entitled to the promotion. The Petitioner further contends that Respondent Nos. 4 and 5 failed to initiate the process of promotion, as a result, during his service period, he could not be promoted to the post of Headmaster despite being the senior-most in Respondent No. 5 – School.

4. We have heard the learned Advocate for the Petitioner. The learned Advocate, after fairly informing this Court that the Petitioner has now retired upon attaining superannuation, submitted that the Petitioner's entitlement to the post of Headmaster is not disputed, as he

was the senior-most. He further argued that even though the Petitioner has now superannuated, if the benefit of promotion is granted, his pensionary and other pecuniary benefits will be enhanced, and that is the only relief for which the Petitioner seeks to press the present petition.

5. The learned AGP, appearing for Respondent Nos. 1 to 3, argues that, in view of the reliefs sought, the Petition is not maintainable and that there is an alternate remedy available under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (MEPS Act) to approach the School Tribunal.

6. We have heard both the sides.

7. The objection raised by the learned AGP regarding the maintainability of the Petition on the ground that an alternate remedy exists under Section 9 of the MEPS Act is not sustainable for the simple reason that this is not a case of supersession and the appointment has been made of other employee only for the purpose of signing the papers as an In-charge Headmaster. Thus, in our considered view, the Writ Petition seeking promotion under Article 226 of the Constitution of India is very much maintainable on the present facts and circumstances.

8. As far as the contention of the Petitioner's advocate seeking

a direction to grant the Petitioner a promotion is concerned, it does not arise at this stage, since, with the efflux of time, the Petitioner has already retired from service. Once he has retired, no direction for granting him the benefit of promotion can be issued at this stage.

9. However, we make it clear that, in the event that, in the future, the process of granting promotion is initiated by Respondent Nos. 4 and 5, and the promotion granted to any employee is made effective from a date when the Petitioner was still in service, the Petitioner shall have the right to claim the benefit of such promotion, as it would then relate to the period during which he was employed with Respondent Nos. 4 and 5.

10. At this stage, we also observe that the advocate for the Petitioner, upon taking instructions from the Petitioner, has informed us that the Petitioner was threatened by the In-charge Headmaster of Respondent No. 5 and the Secretary of Respondent No. 4 to withdraw the Petition and not to press the same, else his pensionary papers and documents would not be forwarded. We do not appreciate such kind of practice adopted by Respondent No. 4 and 5, who pressurized the litigant, who has approached the Court of law for any reason.

11. We, therefore, issue mandatory directions to Respondents

Nos. 4 and 5 to forward the pension papers and documents within a period of one month from today. We make it clear that if there is any failure on the part of Respondents Nos. 4 and 5 to comply with these directions, they shall be held in contempt, although, at this stage, we are not inclined to issue any notice to them for indulging in such practices. With the aforesaid directions, we dispose of the Petition.

12. Place the petition for compliance on **11th March, 2026.**

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

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