



{1}

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

38 WRIT PETITION NO. 14628 OF 2025

Pushpabai Nana Bhalerao

VERSUS

The State Of Maharashtra And Others

.....

Mr. Anand V. Indrale Patil, Advocate for Petitioner

Ms. Neha B. Kamble, AGP for Respondents

.....

CORAM : SMT. VIBHA KANKANWADI AND
HITEN S. VENEGAVKAR, JJ.

DATE : 19 JANUARY, 2026

PER COURT :-

1. The present petition has been filed challenging the decision dated 07.04.2012 passed by Respondent No. 3 and seeking a direction to Respondent No. 3 to take an appropriate decision

2. Learned AGP waives service of notice for respondents No.1 to 3. There is no necessity to issue notice to respondent No.4.

3. The fact which is not in dispute is that the petitioner was appointed on a compassionate basis with effect from 16.06.2008. As approval was not granted, he approached this Court by filing Writ Petition No. 2078 of 2010. By an order dated 15.03.2010, this Court, after noting that the petitioner's appointment is undisputed as a peon in the institution, directed the Education Officer to decide the proposal

{2}

within a period of six weeks. It appears that initially an order came to be passed on 22.12.2011, thereby granting approval to the services of the petitioner on an honorarium basis, i.e., from 16.06.2008 to 15.06.2011. Thereafter, another order came to be passed on 07.01.2012 by respondent No.3, thereby granting approval to the pay scale from 15.03.2010 i.e from the date of the decision of this Court.

4. The learned advocate for the petitioner submits that when the approval has been granted to the services of the petitioner from 16.06.2008, then she ought to have been placed in the same category from 16.06.2008 itself, and it could not have been from 15.03.2010 i.e. the date of the order of this Court.

5. Learned AGP after making a request for accommodation, submits that, as per instructions received, the orders states that pay scale would starts from 15.03.2010.

6. The first and foremost fact that is required to be noted is that while passing the order on 22.12.2011, the first mistake was made by respondent No. 3 in granting approval on an honorarium basis when the appointment of the petitioner is on a pure vacant post that too on compassionate ground. "The second mistake committed by Respondent No. 3 was in reviewing his own order dated 07.04.2012. A perusal of

{3}

the record indicates that the reference considered therein was the same as that in the order dated 22.12.2011, which clearly shows that no one had approached Respondent No. 3 seeking any correction. Respondent No.3 has no power of review. Even if he wanted to make a correction and thereby recall the earlier order, the same ought to have been properly worded and supported by reasons. In the absence of any such reasons, no justification has been recorded for taking such a course. The order dated 07.04.2012 is silent as to why the pay scale is being granted from the date of the order of this Court, when his approval stood from 16.06.2008. The said order placing the petitioner in the pay scale category ought to have been approved with effect from 16.06.2008.

7. We are aware that the order that was passed on 22.12.2011 was never challenged by the petitioner and the second order i.e. 07.04.2012 is challenged after so many years. However, that by itself cannot be a ground for Respondent Nos. 1 to 3, and particularly Respondent No. 3, to avoid their statutory responsibility. It appears that the representation was made to respondent No.3 on 30.12.2013, and thereafter also respondent No.3 had not taken any action. Now, again on 22.01.2025, the representation was made stating all these factors, but respondent No.3 has not taken any action. Therefore, we are bound to interfere since injustice has been caused to the petitioner.

{4}

8. We, therefore, allow the petition and set aside the orders dated 22.12.2011 and 07.04.2012. We direct Respondent No. 3 to issue a fresh order granting approval to the services of the petitioner in the pay scale with effect from 16.06.2008. The said exercise shall be completed within a period of fifteen (15) days from today.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

S P Rane