

(2012) 02 BOM CK 0126

In the Bombay High Court

Case No : Writ Petition No. 2244 of 1995

Sitaram Kashiputra (Since Deceased) through LRs. Smt.
Shakuntala Kashiputra and others

APPELLANT

Vs

State of Maharashtra and others

RESPONDENT

Date of Decision : 08-02-2012

Acts Referred:

Citation : (2012) 3 ALLMR 723 : (2012) 6 BomCR 233 : (2012) 2 MhLj 709

Hon'ble Judges : P.B. Varale, J;P.B. Majmudar, J

Bench : Division Bench

Advocate : Vijaya Thakre, for the Appellant; P.D. Kothari, AGP for respondent
Nos. 1 and 2 and Anjan De, for the Respondent

Final Decision : Dismissed

Judgement

P.B. Majmudar, J.—By way of this petition, the petitioner, who was served as Assistant Teacher at the relevant time, has prayed for revising his pay scale, which is meant for Assistant Teacher of Rs. 365-760 which pay scale has been revised to Rs. 1400-2600. The original petitioner has already died and his heirs are brought on record. Learned counsel for the petitioner has argued that at the relevant time since the petitioner was serving as Assistant Teacher in the school which is run by the Municipal Council, the petitioner was entitled to pay scale meant for the Assistant Teacher (High School) as against he was given pay scale of Primary School Teacher.

2. Learned AGP appearing for respondents 1 and 2 submits that the Education Officer has not granted approval to the appointment of the petitioner as Assistant Teacher in the High School on the ground that there is no provision in the Rules by which a Primary Teacher Cadre can be permitted to be appointed as Assistant Teacher in the High School.

3. Learned Counsel appearing for the Municipal Council submits that the original order by which the petitioner is promoted as Assistant Teacher in High School

was subject to the approval of the Education Officer and since the Education Officer has not granted approval to the appointment of the petitioner, he is not entitled to get the said benefits.

4. We have heard learned counsel for the parties.

5. It is required to be noted that it is not in dispute that there is no provision by which a Teacher in the Primary School can be promoted as Assistant Teacher in the High School. The Municipal Council has clearly stated in the order that the promotion is given to the petitioner subject to approval of the Education Officer. Learned counsel for the petitioner has tried to rely upon the approval/ order dated 17-12-1983, which is produced at Annexure 16A. However, the Education Officer had informed the Head Master of the School where the petitioner was serving that the signature of the Competent Officer regarding appointment of the petitioner and other two teachers is doubtful. It is pointed out by the learned counsel for respondent No. 3 that the word "appointment" is wrong translation, but it is actually "approval". Whether the letter of approval was, therefore, fraudulent or not is a different aspect. However, it is not in dispute that the petitioner was not qualified to be appointed as Assistant Teacher by promotion from the post of Primary School Teacher to the High School Teacher. Since the petitioner was not qualified for the post of Assistant Teacher at the relevant time, naturally, no approval was granted to the said appointment. Considering the aforesaid aspects of the matter, the petitioner is not entitled to the pay scale of the High School Teacher. The petition is dismissed. Rule is discharged. No order as to costs.