

**2023 STPL(WEB) 16 SC
SUPREME COURT OF INDIA**

(SUDHANSHU DHULIA AND K.V. VISWANATHAN, JJ.)

GEETA

Appellant

VERSUS

PRINCIPAL, RAMNAGAR BHARAT VIDYALYA, RAMNAGAR AND OTHERS

Respondent

Civil Appeal No. 5953 of 2012-Decided on 01-06-2023

Service Law – Worked as Teacher for 25 years - Termination due to lack of qualification – Pension allowed

Advocate(s): Mr. Hrishikesh Chitale, Advocate, Mr. Vijay Kari Singh, Advocate, Mr. Rajat Joseph, Advocate, for the Appellant;
Mr. Aaditya Aniruddha Pande, Advocate, Mr. Siddharth Dharmadhikari, Advocate, Mr. Shirang B. Varma, Advocate, Mr. Bharat Bagla, Advocate, Mr. Sourav Singh, Advocate, for the Respondent.

ORDER

1. We have heard the learned counsel appearing for the parties and perused the relevant material placed on record.

2. The appellant before this Court was appointed as a full time teacher in a private though Grant-in-Aid college namely, Bharat Mahila Junior College, Mahal, Nagpur. This appointment was made way-back in the year 1989. One of the essential qualifications for the post of Full time teacher (Bakery and Confectionery) was graduation with 'first class'. The appellant had all the necessary qualifications including graduation but her graduation was in "second class". It seems that she was nevertheless appointed by the Management Committee as she was the best amongst the available candidates and approval was also granted by the Board, subject to the condition that her appointment will be only for one year and she will be getting the grade of an unqualified teacher. Whereas the grade of a qualified teacher was Full-time teacher (1) 2000 - 3200 (Adequately qualified) and the grade for unqualified teacher for which the appellant was appointed was 1640 - 2900 (Inadequately qualified). This specific condition was also stated in the letter of approval dated 06.09.1989 of the Dy. Director, Vocational Education & Training, Regional Office, Nagpur. All the same, her appointment continued thereafter from year to year basis and the Board in turn continued to grant approval for the same till her termination on 29.03.1995.

3. The termination order was challenged by the appellant before the School Tribunal where her petition was dismissed on the ground that she lacked the essential qualification as she was not graduate with first class. Till the decision was taken by the Tribunal, her termination order was stayed and it continued till her petition was ultimately dismissed by the Tribunal. She then filed a Writ Petition before the High Court of Bombay at Nagpur Bench which also granted the stay to the appellant but ultimately dismissed the petition on 07.10.2010, on the same ground as it was dismissed by the Tribunal. The appellant then filed Letters Patent Appeal before the Division Bench which was ultimately dismissed on the same ground that the appellant was not having graduation with first class. Even the Division Bench had granted a protection to the appellant in the meanwhile and even after dismissal of the appeal, the Division Bench had suspended its order dated 18th March, 2011 in order to enable the appellant to approach this Court. The appellant had then filed a Special Leave Petition

before this Court where again on 25th April, 2011 stay was granted and later on leave was granted in the matter. In other words, the appellant has continued to teach in the institute from the year 1989.

4. It is also an admitted fact that during the pendency of this appeal, the appellant was finally superannuated from service on 30th November, 2014. The only question before this Court now is whether the appellant is liable to get pension. Admittedly the appellant has worked on a pensionable post. The law which presently governs the service of the appellant is regulated by an Act known as the Maharashtra Service Employees of Private Schools (Conditions of Service) Regulation Act, 1977. Under Section 16, the powers have been given to the State Government to frame Rules for the condition laying down the conditions of service of teachers and under which Rules were framed which are known as the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981. Under these Rules, the admitted position is that Rule 8 read with Schedule B, the qualification of full time teacher in Food Technology Group is as follows:

Food Technology Group

1.	Full-time teacher	(a)	Master's degree in at least 2nd Class of a statutory University in the respective subject/faculty or its equivalent qualification recognised by the Government; and
		(b)	Three years' experience either in the teaching line or in the profession or both combined; or
		(a)	Bachelor's degree in at least 1st Class in Home Science of a statutory University; and
			(i) Diploma in Dietetics or
			(ii) Diploma in Hotel Management and Catering Technology with postgraduate Diploma Course in Dietetics; or
			(iii) Diploma in Canning and Food Preservation
		(b)	Five years' experience either in the teaching line or in the profession or both combined.
			Note: For purposes of Courses belonging to Food Technology group the term "respective subject/faculty" shall include M.Sc. in Institutional Management or Microbiology or in Food and Nutrition.

5. The admitted position is the only qualification the appellant lacked was that though she was a graduate but not in first class as was the requirement. Since admittedly, the appellant did not have the qualification as required under the law and this was being the consistent finding of the Tribunal, learned Single Judge as well as the Division Bench of the High Court, we do not find any reason to interfere with this finding, so far as the qualification is concerned. We do not want to unsettle what has been already settled upto the Division Bench of the High Court. To that extent we see no reason to interfere with the order.

6. Having made the above determination, we are also of the considered view that under the peculiar facts and circumstances of the case, there is a special equity in favour of the appellant. The reason being that the appellant has continued to work as a Full Time Teacher for 25 long years and has now been superannuated from service. She has devoted her entire working career to her job. The fact also

remains that the appellant was not given the actual salary of a full time teacher but the lower salary which was applicable on that post. She deserves to get her pension.

7. We are making it absolutely clear that we have not interfered with the findings of the High Court and we are making this determination only under the peculiar facts and circumstances of the case in exercise of our power under Article 142 of the Constitution of India. Considering that at this stage denial of pension to the appellant would incur a lot of hardship to the appellant, the appellant shall be given pension along with the arrears. Let the entire calculation be made and the arrears be paid within a period of ten weeks from today.

8. It is made clear that the pension will be applicable on the pay scale which she has been given to the appellant though with all consequential benefits including the applicable revisions on the said pay scale which has been made from time to time.

9. In view of the aforesaid, the appeal is disposed of.

10. There shall be no order as to costs.
