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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2419 OF 2008

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Deepali Dinesh Naik,

Adult, Occupation Service,

R/at: Ganaraj Society, Adesh Nagar,

Kalewadi, Pune 411 017.

... Petitioner

V/s.

1. Krantivir Chafekar Education Society,

Educational Institute, registered
under B.P.T. Act & Also under
Societies Registration Act, having
its office at Pandharicha Mala,
Chinchwad, Pune 411 033

2. Head Mistress,

Krantivir Chafekar School,
Chinchwad, Pune 411 030.

3. Shikshan Mandal Karyalaya,

Pimpri Chinchwad Corporation,
Prashashan Adhikari, Pimpri,
Pune 411 018.

4. The Education Officer,

Zilla Parishad, Pune 411 001

5. Pramila Dilip Deshmukh,

Age 42 years, Occupation Service,
R/at: Ganannand Maharaj Society,
Section No.27, D-3, P.C.N.T., Dev.
Authority, Nigdi, Pune 411 044

... Respondents

Mr. Bhushan Tayade with Mr. A. Tayade for the petitioner.

Mrs. D.S. Deshmukh, AGP for respondent No.4-State.

Mr. V.K. Bodhare i/by Mr. A.M. Joshi for respondent No.5.

CORAM : AMIT BORKAR, J.

RESERVED ON : JANUARY 29, 2026.

PRONOUNCED ON : FEBRUARY 6, 2026

JUDGMENT:

1. By the present writ petition instituted under Articles 226 and 227 of the Constitution of India, the petitioner calls in question the legality and correctness of the Judgment and Order dated 20 November 2007 delivered by the School Tribunal in Appeal No. 106 of 2003. The supervisory and writ jurisdiction of this Court is invoked on the ground that the findings recorded by the Tribunal suffer from errors apparent on the face of the record and warrant judicial scrutiny.

2. The factual backdrop giving rise to the present proceedings may be stated thus. The petitioner came to be appointed as a Teacher in respondent No. 1 primary school on 13 June 1986. At the time of her initial appointment, she possessed the qualification of S.S.C. and D.Ed. Subsequently, in April 1991, the petitioner acquired the degree of Bachelor of Arts. Respondent No. 5 entered service in the same primary school on 21 November 1994, holding the qualifications of B.A. and B.Ed. from the inception of her appointment. These foundational facts are not in dispute.

3. On 12 January 1999, respondent No. 5 instituted Writ Petition No. 3824 of 1999 before this Court seeking placement in a higher pay scale. The petitioner herein was not impleaded as a party to the said writ petition. This Court allowed the writ petition and directed that respondent No. 5 be placed in the pay scale of Rs. 975 to 1,660 with effect from January 1996, accepting her contention that she was the only trained teacher in the respondent school at the relevant time. The order thus attained finality insofar as respondent No. 5 was concerned.

4. Thereafter, on 31 October 2003, the petitioner preferred Appeal No. 106 of 2003 before the School Tribunal asserting her entitlement to the graduate pay scale and seeking a direction to the respondent Management to grant her such pay scale. In the memorandum of appeal, it was specifically pleaded that the seniority list maintained by the Management placed the petitioner at Serial No. 4, whereas respondent No. 5 was shown at Serial No. 9. The petitioner raised a grievance that despite having acquired a graduate qualification in the year 1991, she was not treated as a trained graduate teacher, whereas teachers junior to her were extended the benefit of the graduate pay scale. The appeal thus rested upon the twin foundations of seniority and qualification.

5. Respondent No. 5 resisted the appeal by contending, at the threshold, that the same was not maintainable under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977, as the dispute did not relate to termination, dismissal, removal, reduction in rank, or supersession. It was urged that respondent No. 5 possessed the qualifications of

B.A. and B.Ed. on the date of her appointment and was, therefore, rightly treated as a trained graduate from inception. It was further contended that in Writ Petition No. 3824 of 1999, this Court had set aside the order of the Director of Education and the Educational Officer which had reduced her pay scale from Rs. 1,400 to 2,600 to that of an untrained graduate teacher in the scale of Rs. 975 to 1,600. In view of the said adjudication, it was submitted that the petitioner was not entitled to reopen or indirectly challenge the position crystallised by the earlier writ order.

6. The learned Advocate appearing for the petitioner submitted that teachers initially appointed with S.S.C. and D.Ed. qualifications, who subsequently enhance their academic qualification by acquiring a B.A. degree while in service, become entitled to the graduate pay scale in accordance with the applicable Government policy. It was urged that the petitioner, having acquired her B.A. degree in the year 1991, fulfilled the requisite criteria and ought to have been granted the graduate pay scale from the relevant date. According to him, the benefit of graduate pay scale is extended to the senior most eligible teachers in the prescribed ratio of 75:25 between D.Ed. and B.Ed. categories. On this premise, it was contended that the petitioner, being senior and duly qualified, had a legal entitlement to be placed in the graduate pay scale along with consequential monetary and service benefits.

7. In support of the above submissions, reliance was placed upon the judgment of this Court in *Kondiba Dagdu Mirashe v.*

State of Maharashtra, reported in 2002 (4) Mh.L.J. 840, and the decision of the Supreme Court in *State of Maharashtra and Others v. Tukaram Tryambak Chaudhary, reported in AIR 2007 SC 1321*. It was contended that the principles enunciated therein govern the entitlement of teachers who acquire higher qualifications during service and support the claim advanced by the petitioner.

8. Per contra, the learned Advocate for respondent No. 5 opposed the writ petition and reiterated that a claim relating solely to pay scale does not fall within the ambit of Section 9 of the MEPS Act. It was submitted that the petitioner had expressly confined her grievance to the question of pay scale and had not alleged supersession. Consequently, the appeal before the Tribunal was not maintainable in law. It was further urged that since this Court had already granted the benefit of graduate pay scale to respondent No. 5 in earlier proceedings, the petitioner could not seek a parallel or conflicting relief. On these grounds, dismissal of the writ petition was sought.

Reasons and analysis:

9. The Maharashtra Employees of Private Schools Act constitutes a self contained legislative framework governing the field of employment in private educational institutions. It regulates appointment, conditions of service, disciplinary action, and the mechanism for redress of specified grievances. The Act is not a skeletal enactment that requires supplementation from general service jurisprudence except where the statute itself so provides. The rights and liabilities of employees and managements alike

must be traced to the text of the statute. Courts are not at liberty to travel beyond that text in order to fill perceived gaps.

10. Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 reads thus:

“9. Right of appeal to Tribunal to employees of private schools.

(1) Notwithstanding anything contained in any law or contract for the time being in force, any employee in a private school—

(a) who is dismissed or removed or whose services are otherwise terminated or who is reduced in rank, by the order passed by the Management; or

(b) who is superseded by the Management while making an appointment to any post by promotion,

and who is aggrieved, shall have a right of appeal and may appeal against any such order or supersession to the Tribunal constituted under Section 8:

Provided that no such appeal shall lie to the Tribunal in any case where the matter has already been decided by a Court of competent jurisdiction or is pending before such Court on the appointed date, or where the order of dismissal, removal, otherwise termination of service or reduction in rank was passed by the Management at any time before the 1st July 1976.”

11. Section 9 confers a right of appeal upon an employee in defined circumstances. The remedy so provided is neither inherent nor incidental. It is a creation of the legislature. The Tribunal derives its jurisdiction exclusively from the statute and must operate within its bounds. If the statute does not confer a remedy

for a particular category of grievance, the Tribunal cannot assume jurisdiction in relation to the category of grievance not provided specifically. Legislative intent as expressed in the language employed must prevail.

12. A plain reading of Section 9 shows that clauses (a) and (b) specify the orders against which an appeal shall lie. The reading of the provision makes it clear that the contingencies are set out in clear terms. It does not use words of wide amplitude such as “any order affecting service conditions.” Instead, it identifies particular kinds of action. The principle of *expressio unius est exclusio alterius* applies in this context. Where the legislature expressly mentions certain grounds of appeal, it impliedly excludes others. The Tribunal, therefore, cannot assume a general supervisory role over all service related decisions of the Management. Its authority is specified. To read into Section 9 a power to entertain every form of service grievance would amount to amending the statutory provision.

13. Insofar as clause (a) is concerned, the expression “reduced in rank” must be understood in its established meaning service jurisprudence. Reduction in rank contemplates placing a employee lower in the hierarchy of posts. It presupposes the existence of a cadre and a prior status held by the employee. There must be a act of the Management whereby the employee is placed in a post lower than the one previously occupied. Such an order ordinarily carries civil consequences and is generally associated with disciplinary action, though it may arise in other contexts as well.

14. The essential element is the change in rank. The employee must have held a particular position and, by virtue of the impugned order, must have been demoted to a lower one. In the absence of a specific order effecting such demotion, the concept of reduction in rank cannot be invoked. A mere dissatisfaction with emoluments, increments, or placement in a particular pay scale does not satisfy this requirement. Unless there is an alteration in the rank status of the employee, clause (a) remains inapplicable. It follows that the scope of Section 9 must be confined to cases where the statutory conditions are clearly fulfilled.

15. The difference between promotion and grant of a higher pay scale must be clearly understood before deciding the issue of jurisdiction. These two matters may appear similar at first glance, but in service law they stand on different footing.

16. Promotion means moving to a higher post. When a person is promoted, the nature of work changes. Duties become wider. Responsibility increases. Status in the institution rises. A teacher who is promoted may become a Head Master or may be placed in a post carrying supervisory powers. Such movement changes the position of the employee in the service hierarchy. It affects rank. It may also affect authority over others. Therefore, promotion is not merely about money. It is about elevation in the cadre structure.

17. On the other hand, placement in a higher pay scale does not always change the post. A person may continue to work in the same position, perform the same duties, and yet receive higher salary because of revised pay rules, additional qualification, or

length of service. Many times, Government issues resolutions stating that teachers who acquire higher educational qualification will be entitled to a certain pay scale. In such cases, the post remains the same. Only the scale of pay is altered in terms of policy. There is no movement in hierarchy.

18. These two concepts, though sometimes resulting in higher salary, cannot be treated as identical. A higher pay scale does not automatically mean promotion. When an employee contends that after acquiring a higher qualification she became entitled to a graduate pay scale, the dispute is essentially about the correct application of Government policy or service rules. The Court or authority has to examine whether the employee fulfills the conditions laid down in the relevant Government Resolution. The issue is whether the policy covers the employee and from which date benefit should be granted. Such a dispute does not amount to supersession in promotion. Supersession arises only when a promotional post exists and a junior is preferred over a senior in that promotional exercise. If there is no promotion to a higher post and the grievance is confined to salary scale, the matter does not fit within the limited categories mentioned in Section 9 of the Act.

19. If every dispute relating to pay, increments, or monetary benefits is allowed to be brought before the School Tribunal under Section 9, the scope of that provision would expand far beyond what the legislature intended. The Tribunal would then become a general forum for all kinds of financial claims between employees and management. The Act does not confer such wide jurisdiction. The right of appeal under Section 9 is restricted to specific

situations such as termination, reduction in rank, or supersession in promotion. Therefore, unless the claim regarding higher pay scale is directly connected with denial of promotion to a higher post in favour of a junior, it cannot be treated as a case of supersession.

20. In the present matter, the facts are largely undisputed. The petitioner was appointed as a teacher. She later improved her qualification by obtaining a graduate degree. She now says that because of that qualification and her seniority, she should have been granted the graduate pay scale. She does not point to any order by which she was removed, dismissed, terminated, or reduced to a lower post. She also does not place before the Court any promotion order showing that a junior teacher was promoted to a higher post while she was ignored.

21. The record does not show that any separate promotional post was filled and that the petitioner was denied consideration for the same. There is no material to indicate that her rank in the cadre was altered or that she was pushed down in hierarchy. She continues to serve on the same post as before. Her complaint is confined to salary scale.

22. The dispute, therefore, is about whether she is entitled to a higher pay scale on account of acquiring higher qualification and on the basis of seniority. This question may involve examination of Government Resolutions and service rules. However, it does not amount to reduction in rank. Nor does it amount to supersession in promotion as contemplated under Section 9 of the Act.

23. Section 9 provides a limited right of appeal in specific situations. It does not confer a general right to approach the Tribunal for every service related grievance. Since the petitioner's case does not fall within the categories of dismissal, removal, termination, reduction in rank, or supersession in promotion, the appeal itself was not maintainable before the School Tribunal.

24. In view of the above discussion, this Court is of the considered opinion that the Tribunal could not have assumed jurisdiction under Section 9 in a dispute which essentially concerns grant of pay scale. The statutory conditions for invoking appellate jurisdiction were not satisfied on the admitted facts.

25. The learned Advocate for the petitioner has relied upon two decisions to support his case. The first is the judgment of this Court in *Kondiba Dagdu Mirashe*. The second is the decision of the Supreme Court in *Tukaram Tryambak Chaudhary*. According to him, these judgments lay down that when a teacher acquires higher qualification while in service, such teacher becomes entitled to the benefit of a higher pay scale in accordance with Government policy. It is submitted that in those cases the Courts examined the effect of Government Resolutions dealing with grant of graduate pay scale to teachers who improved their qualification after joining service. The Courts held that if the policy permits grant of higher scale and the teacher fulfills the prescribed conditions, the benefit cannot be denied arbitrarily. On that basis, it is argued that the petitioner, having acquired a B.A. degree during service and being senior, cannot be deprived of the graduate pay scale.

26. However, even if the legal principles laid down in those judgments are accepted, one important aspect must be kept in mind. Those decisions deal with entitlement to pay scale under Government policy. They consider whether a teacher who obtained higher qualification is eligible for monetary benefit. They do not enlarge the scope of jurisdiction under Section 9 of the MEPS Act. The question whether a teacher is substantively entitled to a particular pay scale is different from the question whether the School Tribunal has jurisdiction to decide such dispute under Section 9. Therefore, while the judgments relied upon may be relevant on the issue of eligibility under policy, they do not automatically answer the preliminary issue of maintainability. The present case must first satisfy the statutory requirement under Section 9 before the merits of entitlement can be examined. That distinction cannot be overlooked.

27. For the reasons recorded hereinabove, this Court finds that the grievance raised by the petitioner does not fall within the limited jurisdiction conferred upon the School Tribunal under Section 9 of the MEPS Act. The dispute relates to grant of a particular pay scale and does not involve dismissal, removal, termination, reduction in rank, or supersession in promotion. The statutory conditions necessary to invoke the appellate remedy were not satisfied.

28. In absence of jurisdictional foundation, the claim cannot be entertained in these proceedings. The submissions advanced on merits do not alter this legal position.

29. Accordingly, the writ petition is devoid of merit and stands dismissed.

30. No order as to costs.

(AMIT BORKAR, J.)