

Esha

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 782 OF 2023

Mrs. Maria do ceu Lynette Rebello,
age 66 years, resident of H. No. 27, Dr.
Minguel Miranda Road, Margao, Goa. ... PETITIONER

Versus

1. The State of Goa, through the
Chief Secretary, Alto-Porvorim,
Bardez, Goa.
2. The Director, Directorate of
Higher Education, Alto-
Porvorim Goa.
3. The Principal, Rosary Higher
Secondary School, Navelim,
Goa.
4. The Secretary, The Diocesan
Society of Education Paco
Patriarcal, Panjim, Goa. ... RESPONDENTS

Mr Vivek Rodrigues, Advocate for the Petitioner.

Mr Devidas J. Pangam, Advocate General with Ms Maria
Simone Correia, Additional Government Advocate for
Respondent Nos. 1 and 2.

Mr Vledson Braganza, Advocate for Respondent Nos. 3 and
4.

**CORAM: M. S. SONAK &
BHARAT P. DESHPANDE, JJ.**

DATED: 20th FEBRUARY 2024

ORAL JUDGMENT:

1. Heard Mr Rodrigues for the Petitioner, the learned Advocate General appearing along with Ms Maria Simone Correia for Respondent Nos. 1 and 2 and Mr Braganza for Respondent Nos. 3 and 4.

2. Rule. The Rule is made returnable immediately at the request and with the consent of the learned Counsel for the parties.

3. Mr Rodrigues, based on instructions from the Petitioner, does not press the challenge to Rule 86B of the Goa, Daman and Diu School Education Rules, 1986 and, based thereon, the claims of selection grade from 2005. Instead, Mr. Rodrigues states that the Petitioner now presses for an alternate relief in prayer clause (b), which concerns the payment of the benefit of selection grade in terms of the Deputy Director's communication dated 12.12.2019 read with the Director's order dated 25.02.2015.

4. The Petitioner retired from service after attaining the superannuation on 30.06.2014. Before her retirement, she was pursuing the issue of payment of selection grade. Such representations have been placed on record along with this Petition.

5. The Director of Education and Ex-Officio Joint Secretary to the Government of Goa vide order dated 25.02.2015 did away with the condition of a 20% quota system while awarding selection grades to the technical Teachers. This order indicates

that the benefit was now to be granted with effect from 01.04.2014, on which date the Petitioner was very much in service. Accordingly, it is the Petitioner's case that she should have been granted this benefit from 01.04.2014 instead of having to address so many representations and finally institute this Petition. Mr Rodrigues pointed out that despite representations, benefits of selection grade are, to date, not extended to the Petitioner.

6. The Petitioner has also placed on record a communication dated 12.12.2019 issued by the Deputy Director of Education (Plg) to Respondent No. 3 conveying approval for payment of the benefits of selection grade to the Petitioner with effect from 01.04.2014.

7. The communication dated 12.12.2019 is quite clear, and the same reads as follows:

*"No. DE/HSS/PLG/Sel.Scale/1606
Government of Goa,
Directorate of Education,
Alto Porvorim, Bardez - Goa.*

Dated:- 12/12/2019

*To,
The Principal,
Rosary Higher Secondary School,
Navelim, Salcete - Goa.*

Sub: Approval for Selection Scale to Teacher Grade I

*Madam,
With reference to your letter No. RHSS/E-
6/2019-20/529 dated 05.10.2019 on the subject cited*

above, approval is hereby conveyed for the award of Selection scale to Mrs. Maria Do Cue Linete Rebelo, Ex-Teacher Grade I as detailed below:

<i>Sr. No.</i>	<i>Name of the teacher and designation</i>	<i>Date Initial Appointment</i>	<i>Date of Award of selection scale</i>	<i>Present scale of Pay</i>	<i>Corresponding Selection Scale of Pay</i>
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<i>1.</i>	<i>Mrs. Maria Do Cue Linete Rebelo, Ex-Teacher Grade I</i>	<i>08.06.1981</i>	<i>01.04.2014</i>	<i>Pb-3 Rs,15600-39100+5400/- Grade Pay</i>	<i>Pb-3 Rs,15600-39100+6600/- Grade Pay</i>

This approval is granted subject to further confirmation of present scale of pay and corresponding scale of pay mentioned in column No. 5 and 6 by the Audit Cell of this Directorate which will be corrected there and there in case found to be incorrect, while granting approval on pay fixation of Mrs. Maria Do Cue Linete Rebelo, case submitted by the school for which no further corrigendum is required to be issued.

Yours faithfully,

sd/-

(S.S. Amonkar)

Dy. Director of Education (Plg).”

8. Despite the above communication, Respondent Nos. 3 and 4, for reasons best known, failed to extend the benefit of selection scale to the Petitioner. The petitioner was thus forced to institute the present Petition.

9. After this Petition was instituted, the learned Advocate General stated that Respondent Nos. 3 and 4 had to raise the necessary bills, and in terms of the approval already granted by the Director/Deputy Director of Education, payments would be

made to the Petitioner within 4 to 6 weeks from the receipt of such properly raised bills by Respondent Nos. 3 and 4.

10. Mr Braganza, the learned Counsel for the third and the fourth Respondents submitted that on 28.12.2023, a bill was raised, but the same was returned by the Accounts Department of the Government of Goa on the ground that the bill so raised had to have an endorsement/consent from the Petitioner. Mr Braganza stated that such consent would be obtained from the Petitioner, and the bill would be re-raised and re-submitted within a maximum period of two weeks from today. He submitted that Respondent Nos. 3 and 4 were only the drawing and disbursing of authorities, and the payment had to be made by the government.

11. In this case, what we find is that none of the Respondents even disputed the entitlement of the Petitioner to the benefits of the selection scale with effect from 01.04.2014. However, there is no sufficient explanation from the third and the fourth Respondents as to why necessary bills were not raised in 2014-15 itself, given the Director's order dated 25.02.2015. In any case, after the Deputy Director of Education, by his communication dated 12.12.2019, issued a specific approval concerning the Petitioner, the bills should have been raised immediately and not after almost four years, i.e. on 28.12.2023.

12. Accordingly, the Petitioner, in addition to her entitlement to the benefits of the selection scale [which are not even disputed by any of the Respondents], should be awarded some interest and

costs. The entitlements towards the selection scale constitute property that could not have been deprived or withheld for this length of time for no good reason. The State had already approved this grant. The third and the fourth Respondents should have promptly prepared the bills and obtained the amounts from the Government so that they could be disbursed to the Petitioner at the earliest. The Petitioner, under such circumstances, deserves to be reasonably compensated.

13. If on the amount tentatively due to the Petitioner, simple interest at the rate of 6% per annum is calculated from 2015, the amount would be in the range of ₹40,000/-. If the interest at 6% per annum rate is calculated from December 2019, then the amount would work out to around ₹14,000/-. In the peculiar facts of this case, where, for no reason, the Petitioner was made to wait for her entitlement for this length of time, and further, she was forced to make several representations and even institute a Petition before this Court, the ends of justice would be met if, Respondent Nos. 3 and 4 are directed to pay a consolidated amount of ₹50,000/- towards interest and costs. This would be over and above the amount that the Petitioner would be entitled to in terms of the approval dated 12.12.2019 towards her selection scale arrears.

14. This Petition is accordingly allowed. Respondent Nos. 3 and 4 are directed to re-submit the bills claiming benefits of the selection scale to the Petitioner within two weeks from today. Mr. Rodrigues states that the Petitioner will immediately endorse the Petitioner's consent on the bills or consent on any other

document as may be required for endorsing such consent within a maximum of one week from today without waiting for any further intimation from Respondent Nos. 3 and 4.

15. Once the Government receives these bills, the amount should be transferred to the account of the Rosary Higher Secondary School, Navelim, within a maximum of six weeks from the receipt of these bills so that Respondent No. 3 can immediately pay/transfer this amount to the Petitioner. Respondent No. 3 must ensure that this amount is paid/transferred to the Petitioner within a week from the receipt of the amount from the Government. There must be no further delay.

16. Respondent Nos. 3 and 4 must promptly pursue the matter with the Government and clear any objections, etc., so that no further time is wasted. These Respondents would now be primarily responsible for ensuring that the Petitioner receives her arrears at the earliest.

17. Respondent Nos. 3 and 4 must pay the Petitioner an amount of ₹50,000/- within four weeks from today towards costs and interest. It is once again clarified that Respondent Nos. 3 and 4 should bear this amount. This amount shall be over and above the amount of selection scale arrears due and payable to the Petitioner.

18. The Rule is made absolute in the above terms. All concerned to act on an authenticated copy of this Order.

BHARAT P. DESHPANDE, J.

M. S. SONAK, J.