

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**SPECIAL CIVIL APPLICATION No. 13704 of 2010**

**With**

**SPECIAL CIVIL APPLICATION No. 13711 of 2010**

**To**

**SPECIAL CIVIL APPLICATION No. 13755 of 2010**

**For Approval and Signature:**

**HONOURABLE THE ACTING CHIEF JUSTICE MR.BHASKAR BHATTACHARYA**

**HONOURABLE MR.JUSTICE J.B.PARDIWALA**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
- 2 To be referred to the Reporter or not ?
- 3 Whether their Lordships wish to see the fair copy of the judgment ?
- 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
- 5 Whether it is to be circulated to the civil judge ?

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**VARMORA JAYANTILAL MOHANBHAI & 45 - Petitioner(s)**

**Versus**

**STATE OF GUJARAT THROUGH SECRETARY & 15 - Respondent(s)**

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**Appearance :**

MR KB PUJARA for Petitioner(s) : 1 - 46.  
GOVERNMENT PLEADER for Respondent(s) : 1 - 2.  
RULE SERVED BY DS for Respondent(s) : 1 - 16.

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**CORAM : HONOURABLE THE ACTING CHIEF JUSTICE  
MR.BHASKAR BHATTACHARYA**

**and**

**HONOURABLE MR.JUSTICE J.B.PARDIWALA**

**Date : 30/04/2012**

**CAV JUDGMENT**

(Per : HONOURABLE THE ACTING CHIEF JUSTICE MR. BHASKAR BHATTACHARYA)

1. As common questions of fact and law are involved in this batch of petitions, they were all heard together and are being disposed off by this common judgment and order.

2. By way of these petitions, the petitioners working as Assistant Teachers in schools for the disabled children run and managed by institutions duly registered and recognized by the State Government under Section 51 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 have prayed for the following reliefs:-

"(a) To direct the respondents to pay to the petitioners fixed monthly pay as per G.R. Dated 16.02.2006 and 29.04.2010, as per Annexure-I colly and to place the petitioners in the regular pay-scale on completion of 5 years' service accordingly;

(b) To direct the respondent authorities to treat the petitioners at par with the Junior employees who have been subsequently appointed in the same institutions after 16.02.2006, by paying to the petitioners the same monthly fixed pay as per being paid to the said employees who are appointed after 16.02.2006, as per the G.R. dated 16.02.2006 and 29.04.2010 for a period of 5 years and thereafter to place the petitioners in the regular pay-scales;

(c) To direct the respondents to pay the arrears becoming payable to the petitioners pursuant to the aforesaid directions, along with interest @ 18% p.a.

(d) To hold and declare that the action of the respondent authorities in continuing the petitioners in the same fixed monthly pay of Rs.2000, Rs.2200, Rs.2800 and Rs.4200 to the Attendants (Peons) and Sweepers, Clerk-cum-Typist, Teachers and Hostel Rectors (Gruh Pati/Gruh Mata) respectively since the date of their initial appointments, is bad in law, null and void, arbitrary, discriminatory, irrational and violative of Articles 14, 16, 19 and 21 of the Constitution of India;

(e) To quash and set aside the impugned communication dated 24<sup>th</sup> November, 2009, addressed by the State Government to the Director of Social Defense and order of Respondent No.3 dated 08.07.2010 as per Annexure-O colly;

(f) To hold and declare that the statement of fixed monthly pay annexed with the G.R. dated 15.09.2000 at Annexure-A stands substituted by the revised fixed monthly pay as per the Government Resolutions dated 16.02.2006, 01.08.2006 and 29.04.2010 as per Annexure-I colly.

(g) To direct the respondent-State Government to amend the G.R.dated 15.09.2000 at Annexure-A as well as the Statement of fixed monthly pay of employees annexed therewith in accordance with the G.Rs. Dated 16.02.2006, 01.08.2006 and 29.04.2010 as per Annexure-I Colly, and to grant benefit thereof to the petitioners accordingly;

(h) Pending the admission, hearing and final disposal of this petition to direct the respondent authorities to immediately start paying to the petitioners the monthly fixe pay as per G.R. dated 16.02.2006 and G.R. dated 19.04.2010 as per Annexure-I colly. Subject to further orders that may be passed in the present petition;

(H) Pending the admission, hearing and final

disposal of this petition, be pleased to restrain the respondents from altering the service conditions of the petitioners adverse to them in any manner;

(I) Pending the admission, hearing and final disposal of this petition, be pleased to direct the respondent authorities to put the petitioners in the regular pay-scales on completion of 5 year's service at least from 16.02.2006 i.e. w.e.f. 16.02.2011, subject to further orders that may be passed in the present petition;

(J) To grant any other appropriate and just relief/s;"

3. The facts relevant for the purpose of deciding these petitions may be summarized as under:-

3.1 The petitioners are employed in the schools for the Disabled children on fixed monthly pay of Rs.2000, Rs.2200, Rs.2800 and Rs.4200 to the posts of Attendants (Peons) and Sweepers, Clerk-cum-Typist, Teachers and Hostel Rectors (Gruh Pati/Gruh Mata) respectively.

3.2 The said institutions are **"Institutions for Persons with Disabilities"** as defined in Section 2(m) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. The said institutions are duly registered and recognized by the State Government under Section 51 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, and they are provided 100% grant-in-aid towards the salaries of their employees. The said institutions are running schools and institutions

for Disabled Children such as Blind and Visually Impaired, Deaf and Dumb and Mentally Retarded children. They are run under the control, supervision and guidance of the social Defence Department of the State Government. The said Department is now re-named as Social Justice and Empowerment Department.

3.3 The petitioners were duly selected and appointed pursuant to No Objection Certificate (N.O.C.) granted by the respondent authorities for the vacancies in the duly sanctioned posts. Before making such appointments the applications were invited through employment exchange and by public advertisements, selections were made by duly constituted interview committee comprising of the District Social Defence Officer and other members and approval was granted by the Department.

3.4 The petitioners were initially appointed for a period of one year on fixed monthly pay of Rs.2000, Rs.2200, Rs.2800 and Rs.4200 to the Post of Attendants (Peons), Sweepers, Clerk-cum-Typist, Teachers and Hostel Rectors (Gruh Pati/Gruh Mata) respectively. Thereafter, their continuation in the service has been approved from year to year by the Director of Social Defence but, they are continued in the same monthly fixed pay as aforesaid until this date. The petitioners have put in service of about seven years by now.

3.5 On the other hand, those employees who are appointed in the very same institutions after 16.02.2006 are granted the benefit of increased monthly fixed pay, and they are also granted the benefit of automatic placement in the regular pay-scale on completion of five years service, pursuant to the Government Resolution dated 16.02.2006, 01.08.2006 and 29.04.2010, reply issued by the Finance Department of the State Government.

3.6 The G.R. dated 16.02.2006 provided for fixed monthly pay of Rs.1500 for Class-IV employees, and Rs.2500, Rs.3500 and Rs.4500 for Class-III employees. Subsequently, the said fixed monthly pays came to be revised by G.R. dated 29.04.2010 to Rs.3500 per month for Class-IV employees and Rs.4500/-, Rs.5000/- and Rs.6000/- for Class-III employees.

3.7 However, the aforesaid benefit of increased monthly fixed pay and placement in the regular pay-scale on completion of five year's service has not been granted to the petitioners despite several representations.

3.8 It is at that stage that the petitioners thought fit to come before this Court by way of this petitions under Articles 226 of the Constitution of India challenging ex-facie, arbitrary and unlawful actions of the

respondents.

4. It appears that Special Civil Application No.13704 of 2010 came up for hearing before the learned Single Judge of this Court (Coram:Hon'ble Mr.Justice R.R.Tripathi) and his Lordship admitted the petition vide order dated 14.10.2010. While admitting the petition, his Lordship observed as under:-

*" The Court is prima facie of the opinion that there cannot be more grave example of indifference and sheer non-application of mind on the part of the authorities.*

*The petitioners are the employees who were appointed pursuant to the Government Resolution dated 15.9.2000 (a copy of which is produced at Annexure-A collectively at p.30) and they are denied the benefits of Government Resolution dated 16.2.2006 only on the ground that, 'as you were appointed pursuant to a particular Government Resolution', for all time to come you will get only that fixed pay on which you were appointed and benefits flowing from any subsequent Government Resolution will not be available to you. The matter requires consideration. (emphasis supplied).*

**RULE** returnable on 23<sup>rd</sup> November 2010. Notice as to interim relief returnable on 25<sup>th</sup> October 2010. By way of ad-interim relief it is directed that the respondents authorities shall pay to the petitioners as per the Government Resolutions dated 16.2.2006 and dated 29.4.2010 from the month of October, 2010 payable in November, 2010.

*Direct service is permitted. A copy of this order be made available to the learned AGP Ms.Manisha Narsinghani for its onward communication for compliance."*

5. Thereafter, all the petitions came up for further

hearing before another learned Single Judge of this Court (Coram:Hon'ble Ms.Justice Abhilasha Kumari) on 27.01.2011. Her Ladyship passed the following order:-

“Mr. K.B. Pujara, learned advocate for the petitioners *submits* that the respondents have not complied with interim order dated 14.10.2010 of this Court and nor has an affidavit-in-reply been filed in spite of several opportunities having been granted.

Mr. K.P. Raval, learned Assistant Government Pleader states upon instructions, that a Letters Patent Appeal has been filed against the said order. However, the same has not yet been registered.

The learned Assistant Government Pleader may file the affidavit-in-reply on, or before, 11.02.2011. The status of the Appeal may also be indicated on that date. The learned Assistant Government Pleader may also inform the Court whether the above-mentioned order has been implemented or not.

By order dated 14.10.2010, interim relief has been granted. However, in some orders, it is mentioned that the interim relief granted earlier, in each of the petitions, shall continue, till the next date of hearing. As the interim relief granted by order dated 14.10.2010 is unlimited, it is clarified that the interim relief shall continue, and is not limited till the next date of hearing.

List on 11.02.2011. “

6. The record reveals that all petitions once again came up for hearing before the learned Single Judge (Coram:Hon'ble Mr.Justice H.K.Rathod,J.) and on 29.07.2011, his Lordship passed detailed order taking cognizance of the fact that writ-Petition (PIL No.49/11) on the same issue has been preferred by institution viz. Shri.Yogesh Foundation for Human Dignity, which was under consideration by the Division Bench of this High Court headed by Hon'ble the Chief Justice.



Accordingly, His Lordship passed order dated 29.07.2011, which reads as under:-

"4. In light of these facts and prayers made by petitioner before this Court in this group of petitions, recently Hon'ble Division Bench of this Court has passed order on 27/7/2011 in Writ Petition (PIL) No.49 of 2011 which is quoted as under:

"Question that arises in this case is whether State Government is exploiting unemployed persons by paying wages lesser than prescribed scales for same and equivalent posts on which persons are performing similar duties, responsibilities, accountabilities with same qualifications, including those who have been appointed after following legal procedure, and thereby paying less than the minimum wages. Other question is whether paying meager wages to the police personnel and teachers will boost the corruption in the State.

As the questions are of greater importance, we do not treat this petition as Public Interest Litigation in regard to any service matter, but will decide the questions as raised above.

ADMIT.

Respondents have appeared and filed reply affidavit. Petitioner may file rejoinder and may complete pleadings.

Post the **matter** for hearing on 9<sup>th</sup> August, 2011 at 2.30 p.m. on the top of the list as first case."

5. In view of above order passed by Division Bench of this Court, according to my opinion, the question raised in present group of petitions is also squarely covered in Writ Petition (PIL) No.49 of 2011 in which order is passed on 27/7/2011.

6. Therefore, let registry may place present matters before Hon'ble Chief Justice for necessary orders. "

This is how the petitions have placed before us in our consideration.

7. Contentions of Petitioners:-

(I) The persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, provided for mandatory obligation of the State Government to provide for rehabilitation of disable persons and to take affirmative action for the said purpose. As a result of discharging the said statutory obligation, the respondent State Government decided to recognize with grant-in-aid the 20 institutions, which were in the field of rehabilitation of disabled persons, by G.R. dated 15.09.2009. G.R. dated 23.04.2001 and 04.07.2001 as well as 22.11.2001.

(II) Mr. Pujara further submitted that the set up of the employees and fixed monthly pay to be paid to the employees in respect of the said Institutions have been sanctioned by the respondent authorities by passing separate orders for each Institutions. The managements of the said Institutions thereafter invited applications from the District Employment Exchange as well as by issuing advertisements in the news-papers. Several candidates including the present petitioners applied in response to the said advertisements. The dates of interview were fixed by the respondent authorities. The selection

process was undertaken by the selection committee comprising of the District Social Defense Officer of the concerned District and other representatives. The respondent no.3 thereafter granted approval for appointment of the petitioners by separate orders. Only after such approvals the petitioners came to be appointed by individual order of appointments.

(III) Mr.Pujara further submitted that all the appointment orders were initially for a period of one year and on fixed monthly pay of Rs.2000, Rs.2200, Rs.2800 and Rs.4200 respectively in respect of Attendants (Peons) and Sweepers, Clerk-cum-Typist, Teachers and Hostel Rector respectively. Thereafter, the said appointments have been renewed from year to year on the same monthly fixed pay until this date. The approval for continuation of the petitioners in service have been regularly granted from year to year by the respondent authorities.

(IV) Mr.Pujara further submitted that however, though the petitioners have already completed more than five years' service, they have not been placed in regular pay-scales nor they are granted the benefit of increased monthly fixed pay by way of Government Resolutions dated 16.02.2006, 014.08.2006 and 29.04.2010 and they continue to get the same monthly fix pay which they were getting when they first entered into the service.

(V) Mr.Pujara further submitted that the State Government has issued G.R.dated 16.02.2006 as amended by G.R. dated 01.08.2006 laying down the scheme for making appointment of employees on fixed monthly pay basis for a period of 5 years and thereafter, to place such employees in the regular pay-scales on completion of five years' service. The fixed monthly pay prescribed in the said G.R. were Rs.1500 for Class-IV and Rs.2500/-. Rs.3500/- and Rs.4500/- for cadres of different pay-scales of Class-III. By another G.R.dated 29.04.2010 the fixed monthly pay prescribed in the earlier G.R.dated 16.02.2006 has been revised and it is decided to pay fixed monthly pay of Rs.3500/- to Class-IV employees and Rs.4500/-, Rs.5000/- and Rs.6000/- to employees of different cadres of different pay-scales of Class-III.

(VI) Mr.Pujara further submitted that after issuance of the aforesaid Government Resolutions in which the petitioners are serving all such new recruitments have been made in the said increased fixed monthly pay for a period of 5 years and with a provision for automatic placement in the regular pay-scales on completion of 5 year' service.

(VII) Mr.Pujara further submitted that the fixed monthly pay for a period of 5 years granted to the said new employees is far more than fixed monthly pay which is being paid to the

petitioners. It is all the more pertinent that the said employees are to be automatically placed in the regular pay scales on completion of 5 years service. However, the petitioners who have already rendered more than 5 years service are still languishing in the old monthly fixed pay. Thus, the petitioners are meted out highly arbitrary and discriminatory treatment at the hands of the respondents which is not only violative of principles of natural justice but it is contrary to the letter and spirit of the Constitution of India and the persons with Disabilities Act, 1995, and therefore, violative of Articles 14, 16, 19 and 21 of the Constitution of India.

(VIII) Mr.Pujara further contended that the impugned action of the respondents in discriminating between the petitioners who are appointed prior to 16.02.2006 and those employees who are appointed after 16.02.2006 is ex-facie arbitrary, irrational, unjust, unreasonable, discriminatory, bad in law, null and void, perverse, without authority of law, violative of principles of natural justice and violative of Articles 14, 16, 19 and 21 of the Constitution of India.

(IX) Mr.Pujara further submitted that there is no justification whatsoever for giving discriminatory treatment to the petitioners in the matter of monthly fixed pay as well as in the

matter of placement in the regular pay-scale on completion of 5 years' service, because the appointments of the petitioners were made only after the respondent authorities sanctioned the staff-set-up, granted N.O.C. for filling up the vacancies, applications were invited from the District Employment Exchange as well as by issuing advertisements in the news-papers, the interviews were fixed as per the direction and dates given by the respondent authorities, interviews were held by the respondent authorities wherein the District Social Defense Officer was one of the members of the selection committee, and only after the respondent authorities granted approval for appointment of the petitioners. The respondent authorities have also granted approvals for continuation of the petitioners in service from year to year.

(X) It has also been contended that the petitioners are possessing requisite qualifications and they are much more experienced than the employees who have been appointed after 16.02.2006. Therefore, the respondent cannot give discriminatory treatment to the petitioners. AS a matter of fact, the petitioners deserve to be paid more salary than subsequently recruited employees. However, the petitioners are definitely entitled to at least the same monthly fixed pay and placement in regular pay-scale on completion of 5 year's service at par with the employees who have been appointed after

16.02.2006.

The arbitrary action of the respondents, is therefore, required to be quashed and set-aside and the respondents are required to be directed to forthwith pay the revised monthly fixed pay to the petitioners as per G.R. dated 16.02.2006 and 29.04.2010 and also to place all the petitioners in the regular pay-scales on completion of 5 year's service.

(XI) Mr.Pujara further submitted that the newly inserted Article 21-A of the Constitution of India provides for free and compulsory education to all children of the age of 6 to 14 years.

Chapter - V (Section 26 to 31) of the persons with Disabilities (Equal Opportunities, Protection of rights and Full Participation) Act, 1995, casts an obligation on the appropriate Governments and local authorities to provide for free education for children with disabilities and to make scheme and programmes from their non-formal education, for research for designing and developing new assistive devices and teaching aids and materials, for setting up teacher's training institutions to develop trained manpower for schools for children with disabilities, and other matters.

Thus, the institutions in which the petitioners are employed are being run under the

control and supervision of the Government and the salaries of the employees of the said institutions are paid by way of grant-in-aid by the Government as a part and parcel of the Constitutional as well as statutory obligations of the Government as aforesaid. It is, therefore, not open to the respondent authorities to give discriminatory treatment to the employees of the said institution vis-a-vis the employees of the other grant-in-aid institutions, or to give discriminatory treatment to the employees of the same institutions. It is highly arbitrary, irrational, absurd and unjust on the part of the respondent authorities to pay less salary to the petitioners who are appointed prior to 16.02.2006 and to continue their appointments on ad-hoc basis and to pay more salary to other employees who are appointed after 16.02.2006 and to place them in regular pay-scale after completion of 5 year's service. Such action is therefore liable to be quashed and set aside.

8. Lastly, Mr. Pujara contended that in substance and principle, this issue, which has been agitated by the petitioners has been set at rest by this very Division Bench in case of Shri. Yogkshem Foundation for Human Dignity Versus. State of Gujarat and Others., reported in 2012(1) G.L.H. 321.

9. Having heard learned Counsel for the respective



parties and having perused the materials on record, we find that the following facts are undisputed.

(1) The petitioners are employed as Assistant Teachers in the schools for disabled children on a fixed monthly pay. Managements of the said institutions thereafter invited applications from the District Employment Exchange as well as by issuing advertisements in the news papers for recruitment on the posts of Attendants (Peons), Sweepers, Clerk-cum-Typist, Teachers and Hostel Vectors. Several candidates including the petitioners applied pursuant to the said advertisements. The selection process was undertaken by the selection committee and orders of appointments were issued for the period of one year on a fixed monthly pay of Rs.2,000/-, 2,200/-, Rs.2800/- and Rs.4200/- in respect of Attendants (Peons), Sweepers, Clerk-cum-Typist, Teachers and Hostel Vectors.

(2) It appears that thereafter, Government issued resolution dated 28.03.2006 to provide coverage to 1000 additional disabled children. Therefore, 78 new posts were sanctioned under the said government resolution issued by the Finance Department of the State Government. It also appears that thereafter, by order dated 13.06.2006, the approval of the State Government was taken for appointment of additional staff as

provided for in Government Resolution dated 28.03.2006 and in line with government resolution dated 16.02.2006. The approval order dated 13.06.2006, stipulates that an Assistant Teacher is to be given a fixed monthly pay of Rs.3,500/- It was also stipulated that the conditions provided in government resolution dated 16.02.2006 would govern the service of Assistant Teacher and Craft Teacher. In the Year-2009, 6<sup>th</sup> pay commission came into force and the State Government vide government resolution dated 12.02.2009 adopted the recommendation of the 6<sup>th</sup> pay commission. The fixed monthly pay of Rs.3500/- was hiked to Rs.5000/- from 01.05.2010. It appears that the benefit, which was granted to the petitioners of the 6<sup>th</sup> pay commission also came to be withdrawn and the petitioners were once again placed in the pay-scale as provided for by Government Resolution dated 15.09.2000. This was done despite the fact that Government Resolution dated 15.09.2000 was substituted by revised fixed monthly pay as per GR's dated 16.02.2006, 01.08.2006 and 29.04.2010.

(3) It is in this background that the petitioners have prayed that they must be paid fixed monthly pay as per Government Resolution dated 16.02.2006 and 29.04.2010, which provides for pay as per the provision of 6<sup>th</sup> pay commission. We are of the view that the reliefs, which have been prayed for in the petitions pales into insignificance. We

need not go into the issue as to whether the petitioners must be paid monthly pay as per Government Resolutions dated 16.02.2006 and 29.04.2010 because both the Government Resolutions provide only for a fixed pay and nothing beyond that as per the policy of the State Government.

10. We find that the issue is squarely covered by the judgment of this very bench rendered in writ-Petition (P.I.L. No.49/11), wherein the issue was as to whether the State Government was exploiting unemployed persons by paying wages lesser than the prescribed scale for same and equivalent posts on which persons are performing similar duties, responsibilities, accountabilities with same qualification, including those who have been appointed after following legal procedure, and thereby, less than minimum wages. This Court held in *Shri.Yogkshem Foundation (Supra)* as under:-

18. Bearing in mind the aforesaid principles, we are of the firm view that in this case, the defence of the State Government of additional financial burden is not tenable in the eye of law. If the State Government thinks that it is financially weak, it is entitled to reduce the scale of pay of all the employees having regard to its financial capability. Similarly, experience is one of the factors for assessing the salary payable to its employee and for that reason, the scale of pay is evolved providing increase in scale as the experience of an employee grows. But as pointed out by the Supreme Court in the case of *U. P. Land Development Corporation and Anr. v. Mohd. Khursheed Anwar and Anr (supra)*, the newly appointed employees must be given the lowest approved scale payable to the employee doing similar type of job when their qualification and mode of selection are the same and the State Government has also decided to select them being fully satisfied with their merit in the process of selection. Once the State Government having regard to its financial capability introduced the scale of pay recommended by the pay commission, and the newly appointed employees having been found to be suitable for doing the job for which they are selected on merit, for the lack of experience the Government can for a reasonable period keep them at a fixed scale of pay but the total remuneration payable to such newly appointed employee doing job in a given post should not be less than the amount fixed by the pay commission

and approved by the State Government in lowest grade of such scale of pay. In other words, the newly appointed employee before getting the benefit of the first increment in the scale should get the total amount payable to an employee in the lowest grade of scale for that post.

19. At the same time, the period, the newly employed employees would remain in the lowest grade of scale before completion of the period of probation, should be treated

to be part of their service-period for all future service benefit including the retiral ones once they are found to be suitable on completion of probation-period. In other words, the period of probation should be also the part of service on successful completion of probation.

38. We, therefore, find that this Public Interest Litigation should be allowed. The newly appointed employees, before getting the benefit of the regular scale on being found to be suitable on completion of the fixed period, should get at least, the total amount payable to an employee in the lowest grade of pay scale for that post from the date of their appointment. Similarly, the period during which employees would remain in the fixed scale before completion of the period of probation should be treated to be part of their service-period for all future benefits including the retiral ones once they are found to be suitable on completion of probation period.”

11. In the aforesaid view of the matter, we are convinced by the fact that the petitioners serving as teachers in the schools for the disabled children are entitled to get the minimum of the pay-scale prescribed for the respective scale of pay available to the teachers doing the same job. The petitioners who have completed five years of service from the initial appointment i.e. from 2000 shall be placed in the regular pay-scale. The newly appointed employees, before getting the benefit of the regular scale on being found to be suitable on completion of the fixed period, should get at least, the total amount payable to an employee in the lowest grade of

pay-scale for that post from the date  
of their

appointment. The first five years of service from the date of initial appointment shall also be treated to be part of their service period for all future benefits including the retiral one.

12.The writ-petitions are allowed to the aforesaid extent. The State Governmnet is directed to modify the scheme accordingly in terms of our directions and shall extend the benefit of our directions from the date of the appointment as Assistant Teachers in schools for the disabled children run and managed by institutions duly registered and recognized by the State Government under Section 51 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

**(BHASKAR BHATTACHARYA, ACTING C.J.)**

**(J.B.PARDIWALA,J.)**

Girish