

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO.2904 OF 2009
(Arising out of SLP(C)No.5010 of 2006)

TUKARAM PANDURANG MATEKAR

.....APPELLANT(S)

VERSUS

HEAD MASTER & ANR.

....RESPONDENT(S)

O R D E R

Delay condoned.

Leave granted.

This appeal is directed against a judgment passed by a Learned Single Judge of the High Court of Judicature at Bombay in Second Appeal No.362/89 by which the High Court has partly allowed the appeal quantifying the relief claimed by the appellant in the following manner :-

“It is hereby declared that the plaintiff was not a surplus teacher as per G.R. dated 14th March, 1975. The defendants will pay compensation equivalent to three years salary to the plaintiff along with interest thereon at the rate of 6% p.a. from the date of institution of suit till the date of payment of the amount. Calculation shall be made on the basis of the last drawn salary of the plaintiff on the date of the order declaring him as surplus teacher.”

Having heard learned counsel for the parties and after looking into the records and the judgment of the High Court as well as of the courts below, we are of the view that the relief granted by the High Court should be suitably modified.

It is not in dispute that the appellant has already retired in the year 1991. Accordingly, keeping this fact in mind, we modify the decree passed by the High Court to the extent that the appellant shall be entitled to 50% of salary from the date of institution of the suit till the date of payment. As directed by the High Court, calculation shall be made on the basis of last drawn salary of the appellant on the date of order of declaring him as a surplus teacher.

With this modification, the appeal is disposed of. There will be no order as to costs.

.....J.
(TARUN CHATTERJEE)

.....J.
(V.S.SIRPURKAR)

NEW DELHI;
APRIL 22, 2009.

