
(2018) 06 BOM CK 0051
In the Bombay High Court
Case No : WRIT PETITION NO. 2774 OF 2015

ARTI G. DAPTARDAR

APPELLANT

Vs

UNIVERSITY GRANTS COMMISSION AND ORS.

RESPONDENT

Date of Decision : 20-06-2018

Acts Referred:

Citation : (2018) 06 BOM CK 0051

Hon'ble Judges : S.C. DHARMADHIKARI, J;.BHARATI H. DANGRE, J

Bench : Division Bench

Advocate : Mihir Desai, Vinamra Kopariha, Rui Rodrigues,
Kedar Dighe, P.M. Palshikar, .I.A. Saiyed

Final Decision : Allowed

Judgement

Bharati H. Dangre,J

1. Rule.Â Rule is made returnable forthwith.

2. The petitioner, a Lecturer in Statistics working in the D.G. Ruparel College of Arts, Science and Commerce, Mumbai, respondent No.8 is

constrained to invoke the writ jurisdiction of this Hon'ble Court seeking regularization of her services from initial date of appointment i.e. from

05.07.1993 and praying for appropriate directions to consider her appointment to be a regular one and further seeking direction to confer the benefits

under the Career Advancement Scheme and to grant consequential benefits of a confirmed service.

The college in which the petitioner is working is affiliated to the University of Mumbai, respondent No.6 in the petition.Â The said college is in receipt

of aid from the Directorate of Higher and Technical Education, State of Maharashtra and the said authorities are impleaded as Respondent Nos.4 and

5 to the said petition.

In order to appreciate the grievance of the petitioner, it would be necessary to briefly delve into the facts involved.

3. The petitioner is domiciled in State of Maharashtra and belongs to Open Category. She acquired a Post Graduate Degree i.e. M.Sc. in subject

Statistics from the University of Bombay in the year 1988. She also completed a Post Graduate Diploma in Computer Software. The petitioner

on the basis of the said qualifications came to be initially appointed to the post of Lecturer in Mulund College of Commerce. The services of the

petitioner in the said college were approved by the University of the Mumbai in the pay scale of Rs.2200-75-2800-100-4000.

On an advertisement being issued by Respondent No.8 inviting applications for the post of lecturer in various subjects including Statistics, the petitioner

responded to the said advertisement. It is to be noted that though as per the advertisement the post of lecturer in Statistics was shown as reserved

for SC/ST/NT Category, the petitioner though not belonging to any of the category preferred an application against the said post. On going through

the due procedure of selection by the University Selection Committee, the petitioner came to be appointed as fulltime Lecturer in Statistics in

respondent No.8 college with effect from 05.07.1993, since no suitable candidate from the reserved category was available. The appointment, of

the petitioner was approved by the respondent No.6 University in the capacity of a fulltime lecturer in Statistics on temporary basis from 05.07.1993 to 20.04.1994. Her appointment, so made, was extended from time to time in the subsequent academic years without any break in service

by issuing fresh appointment orders at the commencement of every academic year. Accordingly, her services were duly approved by the

respondent No.6 University as a fulltime lecturer till the academic year 2003-2004. The post of fulltime lecturer in Statistic was advertised every

year by the respondent No.8 by reflecting the post to be filled in through a reserved category however no candidate from reserved category

was available to fill the said post.

The specific case of the petitioner is that from the date of her initial appointment from 05.07.1993 the petitioner is continued as a lecturer in statistics

and it is the claim of the petitioner that in terms of the policy decision of the

State Government as contained in Government Resolution dated 05.12.1994,

the post ought to have been dereserved by initiating process by the respondent No.8 college, since it is the policy of the State Government

that if a suitable candidate for a reserved post for SC/ST is not made available, in spite of advertising the said post consequently five times and on

the sixth time by inter changing the reservation, then such college/institution is entitled to dereserve the said post by obtaining appropriate

permission. According to the petitioner since her appointment in the year 1993, the post on which she was appointed was advertised every year by

the respondent No.6 but the candidate from reserved category could not be made available and therefore according to her at the end of the seventh

year, i.e. in the academic year 1999-2000 the post ought to have been dereserved and she preferred representations to that effect.

4. Being aggrieved by the inaction on the part of the respondent authorities the petitioner approached this Court by instituting proceeding by way of

Writ Petition No.195 of 2004, in which the petitioner sought a relief of dereserving her post.

On such a petition being preferred, this Court entertained the grievance of the petitioner and on 11.02.2004 was pleased to dispose of the Petition by

issuing direction to the respondent No.1 the Modern Education Society and the respondent No.2 D.G. Ruparel College of Arts, Science and

Commerce, Mumbai to initiate steps for dereservation of the post of lecturer in Statistics, held by the petitioner by forwarding the proposal in that

behalf to the University of Mumbai. It was also directed that on receipt of such a proposal, respondent No.4 shall forward the same with its

comments to the Joint Director of Education Mumbai, who was then directed to pass appropriate orders in light of the policies framed and the circular

issued by the State of Maharashtra. It was also directed by this Court that till the proposal for dereservation is considered by the authorities in

accordance with the law, the respondent No.1 and 2 shall not issue any advertisement inviting applications for the post of lecturer in Statistics

Department held by the petitioner.

Upon such directions being issued by this Court, the process was initiated. On 27.11.2006 the Higher and Technical Education Department refused

to grant the proposal and communicated to the Registrar of the Mumbai

University that the said proposal cannot be considered in view of the following deficiencies namely: Â?

(a) That the advertisement for the post to which the petitioner was appointed did not specifically state the category from amongst the reserved

categories from which the post was to be filled

(b) The advertisement showing the changeability of the reserved category was not issued in the sixth year i.e. in the year 1998.

(c) NOC from the various department with regard to the dereservation of the post on which the petitioner was appointed from various departments

was not received.Â

It was thus communicated on behalf of the State Government that in terms of the Government Resolution issued by the General Administrative

Department on 05.12.1994, the post of lecturer in Statistics in D.G. Ruparel College cannot be derserved.

5. The petitioner continued to reiterate her request for dereserving the post by preferring repeated representations.Â In response to the said

representations, it was only on 27.05.2011 the Director of Education addressed a communication to the Principal of the respondent No.8ÂCollege

directing the Principal to present himself along with relevant record in the office of the Directorate in pursuance of the decision of this Court in Writ

Petition No.194 of 2004 on 11.02.2004.Â It was also directed that the proposal for dereservation should be accompanied with the relevant information

namely: Â?

(a) That the advertisement issued in the year 19931994 specified that the post was reserved.

(b) The advertisement in the year 1998 was published in compliance with the inter changeable criteria.

(c) The Employment Exchange Officer had communicated to the respondent No.8ÂCollege that they had failed to find any candidates from reserved

categories and they had accorded their permission/no objection to dereserve the post .

(d) The reservation of the post in respondent No.8 is not subject wise but post wise.

(e) Total number of lecturers in the college of respondent No.8.

6. The said communication was complied by the respondent No.8 college and the requisite information sought was forwarded to the office of the

Director of Higher Education. Another communication emanated from the Mumbai University which was addressed to the Joint Director Higher and

Technical Education in which the details of the posts available in the respondent No.8 college were forwarded and it was mentioned that in all seven

posts were sanctioned out of which three posts are vacant. It was further informed that out of the seven posts one post is reserved for SC, one for

ST one for VJ(A) and the said posts are still vacant and four post are reserved for open category candidate out of which one is occupied by the

petitioner. The University therefore recommended that for dereserving the post which is occupied by the petitioner there is no impediment and in

fact there is no need to dereserve the post in light of fact that a post from open category is available in the college of respondent No.8. A

communication was also addressed on 05.09.2012 by the college to the University thereby mentioning that the advertisement issued in the year 1993 to

1995 had specified that the post is reserved for SC category and even the reservation was mentioned in the advertisement published in the 1998.

7. It is the specific grievance raised by the petitioner in the petition that inspite of a heap of correspondence between the Director and the respondent

No.6 University and the respondent No.8 college from time to time, no action was taken to dereserve the post. The petitioner has also annexed

along with the petition a copy of the roster as on 07.04.2011 and has stated that as on the date of the filing of the petition one post in Open Category is

vacant and one post of Open Category is likely to be vacant in August 2015 and additionally two post of reserved category are already vacant. The

petition therefore, spells that though the petitioner has rendered 23 years of service, respondents have failed to regularize her services and confer the

consequential benefits on her. It is inaction on the part of the respondent authorities which constrained the petitioner to file the present Writ

Petition.

8. The learned Senior Counsel Mr.Mihir Desai appearing on behalf of the petitioner would submit that there is no apparent reason why the respondent

No.3 to 5 have not taken any decision on the dereservation of the post in spite of the fact that the petitioner has rendered 23 years of continuous

service as a lecturer in Statistics in the respondent No.8 college. The learned Senior Counsel would submit that there is no legal impediment in dereserving the post on which she was appointed after lapse of period of seven years, when the college has advertised the said post every year and made genuine efforts to fill in the said post from the reserved category candidate.

Another grievance which is raised by the learned counsel for the petitioner is in respect of non-conferring of the benefits of Career Advancement Scheme and the upgradation of the petitioner in senior grade scale. The learned Senior Counsel would submit that though the eligibility of passing NET/SET examination was made mandatory by the State Government only on 04.04.2000, the lecturers appointed prior to the said date were allowed to be appointed and approved subject to their pending NET/SET qualifications, however, they were not held eligible for conferment of the CAS benefits. The learned Senior Counsel would submit that the respondent No.8 college had addressed a communication to the respondent No.6 University seeking exemption in favour of the petitioner from the requirement of the NET/SET. Similarly, the college had also recommended the case of the petitioner for conferment of the benefits of the Career Advancement Scheme. The learned counsel would place heavy reliance on the subsequent resolution issued by the State Government through the Higher and Educational Department on 26.10.2013 accepting the notification of the UGC dated 16.08.2011 and exempting all the lecturers/Assistant professors appointed from September 1991 to 03rd April 2000 from the initial eligibility criteria prescribed by the UGC of passing of NET/SET. According to the learned Senior Counsel as per the said Government Resolution, the State of Maharashtra had resolved to confer the benefits of Career Advancement and consequential benefits from issuance of the Government Resolution and not from the date of the appointment as specified in the notification of the UGC. In terms of the said policy of the State Government the teacher's appointed from September 1991 to April 2001 are entitled for regularization subject to the condition that the appointment of such teachers is made on regular basis by following due procedure of recruitment and the concerned appointee possesses all other qualifications excluding NET/SET at the time of the initial appointment. The learned counsel would submit that the petitioner is complying with all the requirements and

therefore the petitioner is entitled for exemption from possessing the qualification of NET/SET and also entitled for conferment of benefits of the Career Advancement Scheme in terms of the Government Resolution dated 27.06.2013.

The learned counsel for the petitioner would heavily rely upon the judgment of this Court in case of Mrs.Ruchira Manjrekar V/s. Principle DG Ruparel

College of Arts, Science and Commerce, Mumbai in WP No.1940/2006 decided on 29.08.2013 and would submit that the petitioner is similarly

placed as the petitioner in the said case and is entitled for a similar relief of dereservation and regularization on the post on which she was appointed in

the respondent's college.

9. The Writ Petition filed by the petitioner is opposed by the Joint Director of the Higher Education, Mumbai by filing an affidavit on behalf of

respondent Nos.3 to 5. In the said affidavit filed on behalf the Joint Director of Higher Education, a stand is taken that the petitioner lacks the

qualification to hold the post of lecturer as claimed by her in the petition. It is attempted to State that the petitioner is not qualified in terms of UGC

notification dated 19.09.1991 and the subsequent UGC notification dated 01.06.2009. It is stated in the affidavit that the petitioner is holding a degree

M.Sc. (Mathematics second class) and she has obtained M.Phil degree in March 2010. It is further stated in paragraph No.6 of the affidavit that

the petitioner was not qualified in the year 1993 to be appointed as a lecturer since she had not passed the NET/SET exam till date and inspite of

obtaining M.Phil degree she is not qualified. It is further stated that subsequent to the notification of 2009, the Government Resolution was issued by

State Government on 23.06.2013 pertaining to regularization of the lecturers who had not passed NET/SET examination and appointed during the

period commencing from the year 1992 until March 2000. It is stated that the petitioner was appointed as lecturer on 05.03.1993 and hence the

said Government Resolution is applicable to her. However, she did not satisfy the conditions laid down in the said Government Resolution that the

lecturer should be appointed on the clear vacant post, since the petitioner was admittedly not holding post which is vacant and clear as on date and that

the petitioner was holding the post of lecturer of reserved category. It is therefore stated that Government Resolution is not applicable to the present

petitioner. Apart from the said objection to the appointment of the petitioner the affidavit also deals with the dereservation of the post.Â It is stated in

the affidavit that the respondent No.7 and respondent No.8Âcollege has failed to comply with the procedural requirement laid down in the

Government Resolution dated 27.03.1991 read with Government Resolution dated 05.12.1994.Â The judgment sought to be relied by the petitioner in

case of Mrs.Ruchira Manjrekar is sought to be distinguished on the ground that Mrs.Manjrekar was appointed on 23.07.1990 when NET/SET

qualification was not required.Â By the said affidavit the State Government makes its stand clear and pressed for dismissal of the Writ Petition with costs.

10. We have carefully perused the petition along with its annexures and the affidavit filed on behalf of the respondents opposing the petition.Â This

Court on several occasions was required to deal with issue raised by the petitioner as regards the dereservation of the post in terms of the policy of

the State Government.Â The State of Maharashtra has a policy in place as early as in 1981.Â By Government Resolution dated 30.03.1981 the State

Government had made a provision for reserving the post to the backward category candidates in the nonÂagricultural university and the colleges

affiliated to such Universities.Â By issuing Government Resolution on 20.10.1983, the State Government resolved that if a candidate from reserved

category is not available to fill in the post which is reserved for such category, a nonÂreserved category candidate can be appointed for one academic

year on temporary basis and subsequently such appointment can be continued for the second and third year.Â However, on expiry of period of three

years if the candidate from the reserved category is not available, the said post should be dereserved subject to the terms and conditions mentioned in

the said Government Resolution.Â By issuing a resolution on 29.01.1990 the State Government reiterated its policy of dereserving the post if the

candidate from reserved category is not available by keeping the post reserved for five years and declaring the same to be dereserved in the sixth

year.Â This policy of the State Government was further refined by issuing resolution of 05.12.1994 and by the said resolution it was resolved that

attempt should be made to fill in the post SC/ST, VJÂA/NT and other backward classes for the period of five years and if for these five years a

candidate if these categories was not made available then in the sixth year the post should be advertised for inter-changeability and the manner and

the category in which the inter-changeability is permissible was provided in the Government Resolution. The State Government further provided

that in the seventh year if such candidate from the reserved category is not made available, then the said post, with the prior approval of the General

Administrative Department is entitled to be dereserved.

Thus, the State Government has already framed a policy for dereserving a reserved post if a candidate, in spite of serious endeavor on the part of the

Management/Institutes to fill up the reserved post is not made available and then the post can be dereserved and a candidate from Open Category is

eligible to hold and occupy the said post. Revolving around the said policy, several Writ Petitions came to be filed before this Court and this Court

from time to time had issued directions in the peculiar facts and circumstances of each case, dereserving the post when it had noticed that there was

substantial compliance with the terms and conditions specified in the Government Resolution issued from time to time and material was placed on

record establishing that the college or the institute had made genuine efforts for filing of the reserved post by the reserved category candidates. The

petitions claiming similar relief and based on the said policy of the State Government were disposed of by this Court on numerous occasions, the

decision of this Court in Mrs. Ruchira Manjrekar in Writ Petition No. 1940/2006 in detailed deals with the similar issue where the petitioner sought

issuance of Writ in the nature of mandamus to treat her appointment as a lecturer in Chemistry and coincidentally in the same college of respondent

No. 8 run by the respondent No. 7 Society.

The petitioner relying upon policy of the State Government stakes her claim that her initial appointment as a fulltime lecturer was in pursuance of a

advertisement issued by the respondent college and though the post was reserved, she belongs to Open Category, pursuant to her selection by duly

constituted Selection Committee came to be appointed by the college in the year 1990 for one academic year. It is the specific case of the petitioner

that her appointment came to be continued since the candidate from the reserved category was not made available and she places reliance on the

policy of the State Government dereserving the said post in the seventh year

of such advertisement when the candidate from reserved category is not made available.Â This Hon'ble Court in terms of the policy decision of the State Government contained in Government Resolution dated 05.12.1994 noted that the University has adopted the procedure as prescribed in the said Government Policy and issued advertisements from time to time for each academic year but did not receive any application from the reserved category candidates for the post of lecturer (Chemistry).Â This Court after noticing that the efforts were made by the college to fillÂ up the post byÂ reserved category candidate and taking into consideration the fact that petitioner has discharged her duties in all for 22 years, was pleased to allow the said writ petition and confer the benefits of regularization on the petitioner from the date of her appointment and treated her to be a regularly appointed lecturer in the subject Chemistry in the respondent No.3Â? college and was pleased to confer the said benefits on the petitioner therein.

11. The learned Senior Counsel Mr.Mihir Deasi is perfectly justified in placing reliance on the said judgment by which the issue as regards dereservation of post of reserved category has been put to rest.Â As can be seen from the facts involved in the present Writ Petition, the petitioner came to be appointed with effect from 11.05.1993 pursuant to an advertisement issued by respondent No.8Âcollege inviting applications for the post of lecturer in Statistics.Â Though the advertisement categorically mentioned that the post was reserved for ST category, the candidate from the said category was not available and therefore the petitioner came to be appointed as a fulltime lecturer in Statistics with effect from 05.07.1993.Â In the academic year 1999Â2000 the petitioner completed seven years of service on the said post and though steps have been taken by the respondent No.8 to advertise the post every year, following the advertisement in the year 1993, no suitable candidate from the said category was made available and the petitioner continued on the said post till 2003.Â By an order passed by this Court on 11.02.2004 in the Writ Petition No.195/2004 filed by the petitioner, this Court restrained the respondent No.8 from the issuing any further advertisement inviting applications for the post of fulltime lecturer in Statistics held by the petitioner.Â Thus, the petitioner is continuing on the said post as lecturer in Statistics since 11.05.1993 and continues to hold the said post.Â In terms of the policy decision of the State Government as contained

in the Government Resolution dated 05.12.1994, the said post occupied by the petitioner was entitled for dereservation in the academic year 1998-1999 and the proposal for dereservation was forwarded by the respondent No.8-college to the respondent No.6-University and duly forwarded by the University to the State Authorities in the year 2005, in furtherance of the directions issued by this Hon'ble Court. However, the respondent No.3 pointed out certain deficiencies in the said proposal by its communication dated 27-11-2006. The said deficiencies were subsequently clarified by the respondent No.8-college and also by the respondent No.6-University. However, no steps were taken by the respondent No.3 to recommend the dereservation of the petitioners' post in terms of its policy. The petitioner continued to prefer representations to the State Authorities individually as well as through the college however, no decision has been taken in spite of the petitioner completing more than 23 years of her service. The action of the State Authorities therefore can be only described as dilatory tactics and being insensitive towards the academicians like the petitioners who on acquiring the requisite qualifications are rendering their services in the Educational field.

12. Surprisingly, in response to the writ petition the State Government comes out with a completely new objection to oppose the claim of the petitioner by urging that the petitioner lacks the educational qualifications. It is pertinent to note that in none of the communications which were exchanged by the respondent No.3 with the respondent No.8-college or the respondent No.6-University any objection was raised about the petitioner's educational qualifications. For the first time in the affidavit in response to the petition filed before this Court in February 2018, the stand is taken that the petitioner is not qualified to hold the post of lecturer and it is sought to be submitted by the learned Assistant Government Pleader by referring to the said affidavit that the petitioner has not acquired the qualification of NET/SET which is minimum eligibility condition prescribed for recruitment and appointment of lecturer in University/Colleges in terms of the regulations framed by the UGC. The learned Assistant Government Pleader Shri.Kedar Dighe would vehemently rely on the UGC notification dated 19.09.1991 by which the qualification of clearing the eligibility test of the lecturers conducted by UCC, CSTR or similar test accredited by the University Grants

Commission.

According to him the further notification issued by the UGC on 01.06.2009 maintained the said eligibility criteria and carved out an exception in

respect of the candidates who are and who have been awarded Ph.D. degree in compliance with the UGC (minimum standard and procedure for

award of Ph.D. Degree), Regulation 2009 and according to him only such candidates stood exempted from the requirement of minimum eligibility

condition of NET/SET for recruitment and appointment as Assistant Professor in the colleges.Â As per the respondent, the petitioner was not

qualified in terms of the UGC notification in the year 1993 to be appointed as lecturer though she has obtained M.Phil degree in March 2010, she is not

qualified in view of non-passing of the NET/SET examination.

13. It is to be noted that the objection as to the qualification of the petitioner is raised for the first time and a new stand is sought to be taken for the

first time in the affidavit and sought to be argued by the learned Assistant Government Pleader. Perusal of the communications exchanged between

the college and the university on one hand with the Directorate of Higher Education would reveal that the objection raised was in respect of

dereservation of the post which the petitioner occupied. Perusal of the communication would reveal that at no point of time the said objection as

regards lack of educational qualification of the petitioner was raised. The respondent State has taken an opposite stand in the form of educational

qualification and is attempting to canvass that the petitioner did not possess the requisite qualification.

The qualifications to be possessed by the teachers/lecturers to be appointed, in terms of the UGC regulation has been a subject matter of several Writ

Petition's entertained and decided by this Court.Â The University Grants Commission is the statutory body which makes provision for coÂordination

and determination of the standards in the universities.Â The University Grants Commission Act, 1956 sets out the powers and functions of the UGC

and all the Universities are duty bound to comply with directions/recommendations issued by the commission. The commission is also authorized to

make regulations consistent with the provisions of the Act and which empowers the commission to make Regulations defining the qualification that

should ordinarily be required of any person to be appointed as teaching staff of the university having regard to branch of the education in which he is

expected to give instruction and also to frame regulations for maintenance of standards of the co-ordination of work and facilities in the university.Â

In furtherance of the said power, UGC has framed Regulations from time to time and have prescribed the educational qualification to be possessed as

the basic minimum eligible qualification for teacher/lecturer in the State of Maharashtra.Â In the year 1991 the UGC by its regulation prescribed for

the first time the requirement of passing NET/SET examination as eligibility criteria for degree college lecturer in addition to the minimum prescribed

percentage of marks which was earlier prescribed.Â However, since it was noted that the said examination came to be conducted only in the year

2000, the UGC brought a regulation in the year 2000 and granted relaxation in respect of the passing of the NET/SET examination where such an

examination was not conducted or enough candidates were not available.Â Resultantly, those, candidates who are appointed prior to 04.04.2000

without the eligibility of NET/SET examination were held to be eligible for regularization.Â Thus, the candidates who came to be appointed between

19.09.1991 and 11.12.1999 were held to be entitled for regularization in absence of their passing the NET/SET examination, which was the

compulsory eligibility criteria prescribed by the UGC. It is pertinent to note that the State Government itself issued instructions not to insist on the

educational qualifications prescribed by UGC by its communication dated 11.09.2013 further on 27.06.2013 the State Government

issued a resolution clarifying that these lecturers/teachers who were appointed between 19.09.1991 and 23.10.1992 were not required to acquire the

qualification of NET/SET whereas in respect of teachers who were appointed between 24.10.1992 to 03.04.2000 their services were entitled for

regularization in absence of clearing of NET/SET examination if such lecturers/teachers were appointed on regular basis, on following the prescribed

procedure and their appointments were approved by the University and with the further rider the university had submitted their proposal for

approval.Â In terms of the said Government Resolution their services were entitled to be counted for the purposes of pension from 27.06.2013.

14. Based on these Government Resolutions that the petitioner had claimed conferment of the Career Advancement Benefits and has prayed that the

said benefits need to be conferred since the petitioner possessed the requisite qualification for conferment of senior scale and selection grade in light

of the total years of service being rendered.Â The petitioner has staked her claim on the basis of the Government Resolution dated 27.06.2013.

15. It is to be noted that the Government Resolution dated 27.06.2013 conferring the benefits of Career Advancement from the date of the issuing of

Government Resolution was assailed in group of petitions filed in this Court on the ground that it did not confer the said benefits from the date of initial

appointment as prescribed by the UGC in its notification of 2011.Â The petitioners had objected to the GR to the extent that it confers the benefits

from the issuance of the Government Resolution and not from the date of the initial appointment.Â The said issue raised by the petitioner to the extent

of making applicable the benefits of the Career Advancement Scheme from the date of her initial appointment need not be the dealt in the present

Writ Petition on more than two counts namely,Â the petitioner has not assailed the Government Resolution dated 27.06.2013 and secondly, the validity

of the said Government Resolution has already been tested by this Hon'ble Court in Writ Petition No.2082 of 2013 in case of Maharashtra Federation

of University and College Teachers Organizations, Mumbai V/s. The State of Maharashtra by a detailed judgment delivered by this Hon'ble Court on

23.12.2015.Â This Hon'ble Court has upheld the validity of the said Government Resolution dated 27.06.2013 and declared that the

teacher/professor/lecturer who have not acquired NET/SET qualification and who have been appointed between 24.10.1992 to 03.04.2000 (except

appointed between 19.09.1991 to 23.10.1992) are not entitled for Career Advancement Scheme or other related benefits except the benefits including

the basic scale and increment and other related benefits as declared by the State.Â It has been held by this Court that upon acquiring NET/SET

qualification the teachers shall be entitled for cash and other related benefits in accordance with law from the date they acquire qualification of

NET/SET.Â Resultantly, this Court in the aforesaid Writ Petition has upheld the Government Resolution dated 27.06.2013.

In light of the aforesaid pronouncement we are not required to deliberate on the relief claimed by the petitioner based on the Government Resolution

dated 27.06.2013 and the petitioner therefore cannot be held entitled for the relief sought in prayer clause (C) to hold the petitioner is eligible for

benefits under the Career Advancement Scheme.Â However, as regards the claim of the petitioner in respect of being entitled for dereservation of the post of a lecturer in Statistics which she is holding from 05.07.1993 and conferring her appointment as regular lecturer on completion of probation needs to be granted for the reasons which are already stated in the above paragraphs. The respondentÂ?State authority has failed to dereserve the said post in terms of its own policy and the petitioner could not be deprived of the benefits flowing from the said policy of the State Government.Â The petitioner is entitled for regularization of her appointment from her initial date of joining the service as a lecturer in Statistics in the respondent No.8 College, namely, from 05.07.1993 and is entitled to be confirmed as a full time lecturer from 04.07.1995.Â The petitioner is also entitled for being conferred with the consequential benefits for her services in a full time post of lecturer in Statistics.Â The respondent Nos.1 to 3 are directed to release the arrears, if any, to be calculated considering her date of appointment of 05.07.1993 and further confer her with the benefits accruing to her by treating the petitioner as confirmed employee from 04.07.1995.Â The said arrears, if any, are directed to be paid to the petitioner within a period of three months from the date of the receipt of this judgment.Â Rule is made absolute in the aforesaid terms, with no order as to costs.