

(2020) 03 BOM CK 0006
In the Bombay High Court
Case No : Writ Petition No. 10662 Of 2018

Dr. Anil D. Garje

APPELLANT

Vs

State Of Maharashtra And Ors

RESPONDENT

Date of Decision : 04-03-2020

Acts Referred:

Citation : (2020) 03 BOM CK 0006

Hon'ble Judges : S.S. Shinde, J;V.G. Bisht, J

Bench : Division Bench

Advocate : Laxman Deshmukh, G.B. Solanke, Meena Doshi, A.A. Alaspurkar

Final Decision : Disposed Of

Judgement

S.S. Shinde, J

1. Rule. Rule made returnable forthwith and heard with the consent of learned counsel appearing for the respective parties.

2. It is the case of the Petitioner that, in the year 1993 the petitioner completed his education of M.Sc. in Physics subject. Thus, the Petitioner was

eligible and qualifed for being appointed to the post of Lecturer in Polytechnic college. On 07.05.1994 the Petitioner was appointed to the post of

Lecturer of Physics subject at Sou. Venutai Chavan Polytechnic College run and managed by Sinhagad Technical Education Society, Pune, in the pay

scale of 2200-75-3700. On 04.08.1997 the appointment of the Petitioner has been approved for the post of Lecturer in Physics, in Sou. Venutai

Chavan Polytechnic College. On 13.02.2001, the petitioner was awarded with M.Phil in Physics with A Grade by the University of Pune. The

Petitioner was also awarded with Ph.D in Physics by University of Pune on 27.05.2008. From 1st July, 1995 till 30th November, 2009 for more than

14 years, the Petitioner was in continuous service with Sou. Venutai Chavan Polytechnic College as Lecturer in Physics.

On 25.11.2009, the Petitioner came to be appointed with the Respondent No. 4 College to the post of full time Lecturer in Physics. On 30.11.2009 the

Petitioner resigned from his earlier post of Lecturer at Polytechnic college. In the year 2010, UGC regulations, 2010 came into force. During 2012-

2017 the Petitioner made number of representations to Respondent No. 2 to consider his previous services of more than 14 years for giving benefits

under Career Advancement Scheme (for short "CAS"). In August, 2017 the Respondent No. 2 asked for explanation on certain points for

giving benefits of CAS. On 07.09.2017, the Petitioner gave explanation to all queries which were raised by the Respondent No. 2. On 07.12.2017

Respondent No. 2 rejected Petitioner's request for consideration of Petitioner's previous service for giving benefits of Career Advancement

Scheme. Hence, this writ petition.

3. Learned counsel for the Petitioner submits that, Respondent No. 2 ought to have considered that the petitioner fulfills all the criteria prescribed in

Government Resolution dated 27th February 1994 as well as said Regulations of 2010 for considering his previous service of 14 years as Lecturer in

Physics with Sou. Venutai Chavan Polytechnic. Respondent No. 2 has failed to give reasons for not considering the Petitioner's previous service

for giving him benefits under Career Advancement Scheme. Respondent No. 2 just quoted provisions of Government Resolution dated 27th February

1994, however, he failed to explain that which criteria of the Government Resolution, petitioner does not fulfill. The Respondent No. 2 also failed to see

and consider that by following proper procedure the petitioner was appointed at Sou. Venutai Chavan Polytechnic college at Pune as Lecturer in

Physics. At the time of his appointment at Sou. Venutai Chavan Polytechnic college he possessed requisite qualification as Lecturer. As also, from the

year 1994 to the year 2009 petitioner was in continuous service with the said college. Therefore, Respondent No. 2 ought to have considered the

Petitioner's previous continuous service of 15 years for giving him benefits under Career Advancement Scheme. It is submitted that Respondent

No. 2 failed to see and consider that the petitioner was appointed on the pay scale of 2200-75-3700 which was equivalent to pay scale of Lecturer as

prescribed by UGC for the post of lecturer. The qualification for being appointed to the post of Lecturer in Polytechnic College was not lower than

qualification for being appointed to the post of Lecturer/Assistant Professor in a College affiliated to the University.

4. It is further submitted that the findings recorded by Respondent No. 2 in the impugned order are perverse and contrary to the material placed on

record. Respondent No. 2 failed to consider and appreciate that the powers for grant of benefits of CAS are vested with the committee constituted as

per the provisions of the said regulations of 2010. Respondent No. 2 does not have power to take decision as to entitlement of a Lecturer/or Assistant

Professor for the benefits of CAS. The proposal was submitted to Respondent No. 2 for the limited purposes to issue necessary orders of continuation

of Petitioner's service as Respondent No. 2 was approving authority for approval of Petitioner's past appointment as Lecturer in Polytechnic

College. It is submitted that, the impugned letter issued by Respondent No. 2 is in violation of the provisions of the Government Resolution dated 27th

February, 1994 as well as University Grant Commission Regulations, 2010. Therefore, learned counsel for the petitioner submits that, petition may be

allowed.

5. On the other hand, learned AGP invites our attention to the reasons assigned in the impugned order and submits that, since the petitioner did not

possess the requisite qualification at the relevant time, the request of the petitioner to consider his past service as Lecturer rendered with Sou. Venutai

Chavan Polytechnic College for the period from 1st July 1995 to 30th November 2009 has been rightly turned down by Respondent No. 2.

6. Learned counsel for Respondent No. 4 submits that, Respondent No. 4 did forward the proposal of Respondent No. 2 and it was for the

Respondent No 2 to take appropriate decision.

7. We have given careful consideration to the rival submissions. With the able assistance of learned counsel for the parties, perused pleadings and

grounds taken in petition, annexures thereto and the impugned order.

8. It is required to be noted that Respondent No. 2 has not given a single reason in the impugned order for rejecting the request of the petitioner to

consider his past services for the purpose of Career Advancement Scheme. Respondent No. 2 has only reproduced provisions in Government

Resolution dated 11.02.1994 issued by High and Technical Education Department, Government of Maharashtra and in the end rejected the request of the Petitioner.

9. In the light of discussion herein above, we pass the following order:-

i) The impugned communication/letter dated 7th December 2017 issued by the Respondent No. 2 to Respondent No. 4 which suffers from not

mentioning any reasons for rejecting the request of the Petitioner for counting his past services for the purpose of Career Advancement Scheme is not

legally sustainable. Hence, same is quashed and set aside.

ii) Respondent No. 2 is directed to take decision afresh as expeditiously as possible, however, within 10 weeks from today.

iii) We direct the Respondent No. 2 to give opportunity to the Petitioner to submit additional documents, if any, and also give hearing to the Petitioner

before passing the order afresh.

iv) Respondent No. 2 shall send notice to the Petitioner indicating therein the date of hearing, so that Petitioner can remain present before 2nd

respondent in his office.

v) We have not entered upon the contentions raised on merits by the Petitioner and it is for the Respondent No. 2 to take decision afresh after giving

opportunity to the Petitioner to put forth his contentions.

vi) Rule is made absolute to the aforesaid extent. The writ petition is disposed of with no order as to costs.