

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 2357 OF 2015

1. Krishna Kautik Valvi
Age : 43 years, Occ : Service,
R/o Khandesh College Education Society's
Mooljee Jaitha College, Jalgaon,
Tq. & Dist. Jalgaon.
2. Surekha Pandit Palve
Age : 42 years, Occ : Service,
R/o Khandesh College Education Society's
Mooljee Jaitha College, Jalgaon,
Tq. & Dist. Jalgaon.

..PETITIONERS

-VERSUS-

1. The State of Maharashtra
Through its Secretary,
Higher Education Department,
Mantralaya, Mumbai.
2. Director of Higher Education,
Maharashtra State, Pune.
3. Joint Director of Higher Education,
Jalgaon Region, Jalgaon.
4. North Maharashtra
University, Jalgaon,
Through its Registrar
5. University Grant Commission,
Bahadur Shah Jafar Marg,
New Delhi – 110 002
Through its Secretary
6. Khandesh College Education Society's
Mooljee Jaitha College, Jalgaon,
Tq. & Dist. Jalgaon.
Through its Principal

..RESPONDENTS

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Advocate for Petitioners : Mr. A. N. Nagargoje
ASG for Respondent Nos.1 and 2 : Mr. D.V. Tele
Advocate for Respondent Nos.3 and 5 : Mr. Alok Sharma
Advocate for Respondent No.4 : Mr. A.B. Girase

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**CORAM : S.S. SHINDE &
P.R. BORA, JJ.**

**RESERVED ON : April 06, 2015
PRONOUNCED ON : April 20, 2015**

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JUDGMENT (PER S.S.SHINDE, J.)

Rule. Rule made returnable forthwith. By consent of the learned counsel appearing for the respective parties, heard finally.

2. The brief facts leading for filing the present Petition, disclosed in the memo of Petition, are as under :-

(a) By the instant petition the petitioners are seeking directions against the respondent no. 1 to 4 herein to grant the benefits of Career Advancement Scheme to the petitioners by considering the petitioners' earlier services.

(b) In the year 1995, by following due process of law, the petitioners have been appointed as lecturers in their respective subjects. The petitioners have been appointed by

duly selection committee and the said appointments have been approved by the respondent no.4 University. At the time of appointment of the petitioners, the NET/SET qualification was not essential and the same was made compulsory w.e.f. 04.04.2000. That apart, at the relevant time, the candidates of having NET/SET qualification were not available. Therefore, the candidates who were having the requisite qualification except NET/SET were appointed.

(c) In the year 1999-2000, after appointment, the petitioner no.1 passed NET exam in December, 1999 whereas the petitioner no.2 passed NET exam in June, 2000. Thus both the petitioners have acquired the requisite qualification. In the year 2004, on account of non availability of the NET/SET candidates, the candidates having requisite qualification except NET/SET were appointed as lecturers. Even after appointment also the said candidates did not pass the NET/SET exam and therefore they were not getting benefits of CAS and other consequential benefits. Considering all these aspects, the UGC took a policy decision to grant exemption from NET/SET examination to the lecturers appointed in between 19.09.1991 to 03.04.2000. Accordingly the proposals were called in the year 2004 and thereafter exemptions have been granted to the said

lecturers. In the year 2004, the petitioners were possessing the requisite qualification of NET and therefore, there was no necessity to forward the petitioners proposal for exemption and therefore the petitioners proposals were not forwarded. Considering the qualification acquired by the petitioners i.e. NET, the university has granted exemption to the petitioners.

(d) Though the exemption was granted to the candidates from passing NET/SET examination still they were not getting the consequential benefits such as CAS benefits senior pay scale etc., therefore, some of the lecturers have approached this Court by filing various Writ Petitions. After hearing both the parties, this Court allowed the Writ Petition by holding that the said lecturers are entitled to get all consequential benefits from the date of their initial appointments in view of grant of exemption. So far as the petitioners are concerned, they are on better footing than the abovementioned lecturers, as the petitioners have passed the NET exam and exemption has been also granted by the University. Therefore, the petitioners are also entitled to get the consequential benefits from the date of their initial appointments. However, the respondent no.1 to 4 herein are granting the consequential benefits to the petitioners from the date of acquisition of NET qualification and not from the

date of their initial appointments. So far as the other lecturers are concerned, they are getting the consequential benefits from the date of their initial appointments, though they are not possessing the NET/SET qualification. However, though the petitioners are possessing the NET qualification and though they are on better footing still the CAS benefits and other consequential benefits are not being paid to the petitioners from the date of their initial appointments. Thus it is crystal clear that though the petitioners are on better footing still they are being deprived from their statutory benefits.

3. The learned counsel appearing for the petitioner submitted that, the respondent no.1 to 4 herein have erred in not granting the benefits of CAS and other consequential benefits to the petitioners from the date of their initial appointments and the said action on their part thereby granting the benefits to the petitioners from the date of acquiring the essential qualification is unsustainable in the eyes of law. It is also submitted that, the petitioners have passed their NET exam way back in the year 1999-2000. On account of acquisition of said qualification, their services from the date of their initial appointment should have been taken into consideration for all purposes. However, the

respondents herein are not considering the petitioners' earlier services and granting the consequential benefits to the petitioners from the date of acquisition of requisite qualification and not from the date of initial appointments. It is further submitted that, the other lecturers who were appointed in between 19.09.1991 to 03.04.2000 are getting the consequential benefits from the date of their initial appointments in view of the letter dated 16.08.2011 and in view of the exemption granted by the UGC. The exemption have been granted to the said lecturers as they were not possessing the NET/SET qualification and Ph.D. Since the said lecturers were not possessing the said qualifications, therefore, their proposals were forwarded for grant of exemptions and accordingly the exemption has been granted. The petitioners are on better footing as at the time of forwarding the proposal for exemption, the petitioners were possessing the requisite qualification i.e. NET. Since the petitioners were possessing the requisite qualification, therefore, their proposals were not forwarded for grant of exemption as the exemption was not necessary in petitioners' case. Thus the petitioners are on better footing than the other lecturers to whom the CAS benefits are being paid from the date of their initial appointments. However, though the petitioners are on better footing still the consequential

benefits are not being paid to the petitioners from the date of their initial appointments. The impugned action of respondent no.1 to 4 herein thereby not considering the petitioners earlier services for the purpose of grant of benefits of Career Advancement Scheme to the petitioners is otherwise bad in law. Therefore, the said action deserves to be struck down by directing the said respondents to grant the selection grade/senior pay scale and to give the benefits of CAS to the petitioners by considering the petitioners earlier services from the date of their initial appointments.

4. Though the notices were issued to the respondents and the respondents have caused their appearance through counsel, no reply is filed. The factual assertion of the petitioners is that, the petitioner no.1 was appointed on 24.12.1997 and the petitioner no.2 was appointed on the same date and approval to their appointments have been granted on 25.05.1998 and also further that, the petitioner no.1 has passed his NET in December, 1999 and the petitioner no.2 passed her NET exam in June, 2000, has not been disputed by the respondents. It appears that, though the petitioners have passed NET on the aforementioned years, for grant of benefits the Authority held that, the petitioner no.1 is

entitled from 2nd March, 2001 and petitioner no.2 is entitled for the benefits from 30th April, 2001 and not from the date of their appointments. Admittedly both the petitioners were, as already observed, appointed on 24.12.1997.

5. The learned counsel appearing for the petitioners has placed reliance on various judgments of Division Bench of this Court in the case of **Dr. Mahesh Bapurao Swami V/s The State of Maharashtra and others** in Writ Petition No. 5271 of 2013 and other connected matters, decided on 28th August, 2013, in the case of **Dr. Vishwanath Murlidharrao Ratnalikar and others V/s The State of Maharashtra and others** in Writ Petition No. 5224 of 2013 along with Writ Petition No. 5875 of 2013, decided on 26th September, 2013 and in the case of **Smt. Ashs (Asha) Ramdas Bidkar and others V/s The State of Maharashtra and others** in Writ Petition No. 11477 of 2010, decided on 1st August, 2013 and the unreported judgment of Hon'ble Supreme Court in the case of **State of Maharashtra and others V/s Asha Ramdas Bidkar and others** in Special Leave to Appeal (Civil) No(s). 34118/2013 dated 18.11.2013 in support of their contention that, the teachers, who were appointed during the period from 1991 to 2000 have been

granted exemption by UGC and this Court, after hearing the concern allowed the Petitions by holding that, the petitioners therein, who got exemption from passing NET-SET examination are entitled to get all consequential benefits from the date of their initial appointments.

6. As already observed, both the petitioners have passed their NET exam and exemption has also been granted by the University to them, and therefore, there was no reason for the respondents to deny consequential benefits to the petitioners from their initial appointments and not from the date of acquisition of the NET-SET examination.

7. In that view of the matter, the Petition is allowed in terms of prayer clause 'C'. However, we make it clear that, the orders passed by us today will be subject to outcome of similar Petitions pending before this Court or the Civil Appeals pending before the Hon'ble Supreme Court.

8. Rule made absolute accordingly.

Sd/-

(**P.R. BORA, J.)**

Sd/-

(**S.S. SHINDE, J.**)

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sga/-