

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

19 WRIT PETITION NO.7109 OF 2015

ALLABAKASH ISAK TAMBOLI

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Patnurkar V.D.

Mr. SK Kadam, AGP for Respondents: 1 to 3;

Mr. Suryawanshi K.M., Adv. For R/4

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

DATE : 4th December, 2015.

PER COURT :

1) Heard. By this writ petition, the petitioner has taken exception to order dated 28th July, 2011 in Government Order No. SCT/6511(97/11)/Tanshi-1 and the office order passed by Respondent No.2 dated 29th April, 2015 in file No.4/Adm/S.S.S.S./2015/116 to the extent of the petitioner.

2) The learned Counsel for the petitioner invited our attention to Exhibit-J (page 55 of the

writ petition) and submits that, office order dated 27th January, 2015 passed by Respondent No.4 – Director of Shri Guru Govind Singhji College of Engineering and Technology, Nanded, makes it abundantly clear that the period of suspension i.e. 24.5.2001 to 13.8.2002 has been regularized and the said period should be treated to be a period of discharge of duties and, therefore, the said period could not have been excluded while considering the claim of the petitioner to extend the benefits under Career Advancement Scheme. At the cost of repetition, it is submitted that the said period is treated to be a period of service or regularized for all the purposes, including continuity of service and extending for all the monetary benefits, and therefore, there is no reason for not considering the said period for extending the benefits of Career Advancement Scheme to the petitioner. Therefore, relying upon the pleadings in the petition, grounds taken therein, annexures therein, the counsel for petitioner submits that the petition deserves to be allowed.

3) On the other hand, learned AGP appearing for the State and State authorities, invited our

attention to Government Resolution dated 13th March, 2002 issued by Higher and Technical Education Department, Government of Maharashtra, Mumbai and in particular clause (iii) of caption Lecturer (Senior Scale), i.e. Consistently/Satisfactory Performance Appraisal Report for extending/granting the benefits under Career Advancement Scheme, and submitted that since the petitioner was under suspension for the period from 24.5.2001 to 13.8.2002(1 years, two months and 21 days) and since he did not perform the regular teaching work of lecturer, therefore, his performance appraisal report was nil. However, the said statement of learned AGP is seriously disputed by the counsel for the petitioner.

4) We have heard counsel appearing for the petitioner; learned AGP appearing for the State and State authorities and with their able assistance, perused the pleadings in the petition, grounds taken therein, annexures thereto; reply filed by Respondent No.4 and the rejoinder affidavit filed by the petitioner to the reply filed on behalf of Respondent Nos. 1 to 3.

5) It is necessary to reproduce the relevant paras of Government Resolution dated 13th March, 2002,

which reads thus, -

"Lecturer (Senior Scale) :

A lecturer will be eligible for placement in a senior scale through a procedure of selection if she/he has, -

(i).....

(ii).....

(iii)Consistently / Satisfactorily performance appraisal report."

6) Admittedly, the petitioner was placed under suspension for the period 24.5.2001 to 13.8.2002. It is no doubt true that the said period of suspension has been regularized by order dated 27th January, 2015. However, since the petitioner has not actually discharged his duties as a lecturer, meaning thereby he did not teach the students as a lecturer, there is no question of satisfactorily performance appraisal report in respect of the petitioner for the said period. Therefore, the respondents are right in contending that in absence of satisfactorily performance appraisal report in respect of the petitioner for the said period during which he was under suspension, the petitioner is not entitled to

get benefits under Career Advancement Scheme for the said period. In that view of the matter, we do not see any reason to entertain this petition and interfere in the impugned order. The writ petition is rejected.

(P.R.BORA)
JUDGE

(S.S.SHINDE)
JUDGE

bdv/