

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

WRIT PETITION NO. 8590 OF 2010

The State of Maharashtra & Anr. .. Petitioners
Versus
Dr. Vijaykumar Baliram Sarwade .. Respondent

Mr. A.R. Kale, AGP for the petitioners.
Mr. V.G. Sakolkar, Advocate for sole respondent.

**CORAM : A.V.NIRGUDE &
V.K.JADHAV, JJ.
DATED : 13.10.2015**

P.C. :-

1. This petition is filed by the State of Maharashtra challenging judgment and order dated 13.11.2009 passed by learned Members of Maharashtra Administrative Tribunal, Aurangabad, in O.A. No.516 of 2003. The respondent was appointed as Live Stock Development Officer in April, 1992, after he was recommended by the Maharashtra Public Service Commission. On 27.07.2003 his services were terminated. He, therefore, went before the Maharashtra Administrative Tribunal. There were at least two more cases of this type. Those Officers also approached Maharashtra Administrative Tribunal at Mumbai and Nagpur challenging the order of termination. All Benches of Tribunal at Mumbai, Nagpur and Aurangabad unanimously held that termination was bad in law and the petitioners herein had acted beyond scope of rules for terminating service of the respondent. The Members of the Tribunal unanimously held that though the respondent

herein and his other colleges did not get through the Departmental Examination in the prescribed time-frame, their services could not have been terminated. Such failure on their part would entail some other consequence such as withholding of increments etc. until the examination is passed. Termination from service thus was not possible.

2. It so happened that during the pendency of O.A. before the Benches of Tribunals, the Government of Maharashtra relented and reinstated all the candidates including present respondent. This reinstatement took place in 2006. The question then remained before the Tribunal was whether the respondent was entitled to back wages between 2003-2006. All the Benches of the Tribunal unanimously held that they are entitled to back wages also. The impugned decision is challenged before this Court only in the case of respondent herein. Judgment in other cases in favour of other candidates were never challenged. Therefore, this Court cannot entertain this petition. Filing of this petition would amount to discrimination.

3. The petition stands dismissed. The impugned order shall be complied within six weeks from today. Rule discharged.

[V.K.JADHAV, J.]

[A.V. NIRGUDE, J.]