

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7754 OF 2014

PRATAP DHONDOPANT JADHAV
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

.....

Advocate for petitioner : Mr. Jayant R. Patil
A.G.P. for respondent nos. 1 and 2 : Mrs. S. A. Dhumal
Advocate for respondent no. 3 : Mr. Abhijit Chaudhari

.....

**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATED : 30th JUNE, 2015

P.C. :-

1. Mr. Patil, the learned counsel submits that the petitioner was appointed as Lecturer in the year 1981. In the year 1987, he was appointed as Assistant Professor. His services were approved by respondent no. 2. The learned counsel submits that on 23.08.2002, the petitioner was called for interview for promotion under the Career Advancement Scheme (CAS) as Professor. The interview was held by the Selection Committee under the Chairmanship of respondent no. 2 and other two experts. Name of the petitioner was recommended by the Selection Committee. Thereafter, the petitioner was given promotion under the CAS as a Professor of Chemistry and Sugar Technology w.e.f. 01.01.1996. Even respondent no. 2 granted approval to the promotion of the petitioner on 20.12.2002. Thereafter, the petitioner retired on superannuation on 31.01.2011. According to the learned counsel, abruptly, on 04.08.2014, the petitioner was informed by respondent no. 3 that respondent no. 2 has cancelled the promotion given to the petitioner vide order dated 17.07.2014.

The learned counsel submits that the said order is without notice to the petitioner. According to the learned counsel, the petitioner was duly promoted after having been found eligible by the Selection Committee. The respondent no. 2 cannot review the order of the Selection Committee and that too, after lapse of 12 years. According to the learned counsel, the petitioner has published papers after his appointment as Assistant Professor. However, as no notice was given to the petitioner, the petitioner could not bring it to the notice of the respondents.

2. Mr. Chaudhari, the learned counsel for respondent no. 3 submits that the then Selection Committee found the petitioner eligible and states that the petitioner fulfilled the criteria laid down by the Government Resolution dated 13.03.2002 for promotion. Thereafter, the Selection Committee recommended name of the petitioner.

3. The learned AGP submits that after receiving complaints, the Government formed a special committee and after finding that the petitioner has not published papers after his appointment to the post of Assistant Professor, the order cancelling promotion has been rightly passed.

4. We have considered the submissions canvassed by the learned counsel for the respective parties.

5. The fact that the petitioner was promoted as Professor under the CAS vide order dated 20.12.2002 w.e.f. 01.01.1996 is not disputed. It is also not disputed that the petitioner was interviewed by the duly constituted Selection Committee and on recommendation of the Selection Committee, respondent no. 2 promoted the petitioner

under the CAS. The petitioner worked as Professor and thereafter, retired on attaining age of superannuation on 31.01.2011. Abruptly, in the year 2014, vide the impugned order, promotion of the petitioner is cancelled only on the ground that no papers are published after the petitioner became Assistant Professor. In fact, the petitioner was not even given notice before taking this action, that too, after his retirement.

6. Considering the above, the impugned order is in flagrant violation of the principles of natural justice. The impugned order dated 17.07.2014 is quashed and set aside to the extent of the petitioner. In case, respondent nos. 1 and 2 want to take any action with regard to the promotion of the petitioner, then respondent nos. 1 and 2 shall issue notice to the petitioner and call for his say and in that event, the petitioner is entitled to raise all possible defences available to him.

7. The writ petition is accordingly disposed of. No costs.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)

aaa/