

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

WRIT PETITION NO. 9510 OF 2011

Pandit Shivram Landge

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri Atul R. Kale, Advocate for the Petitioner.

Shri G. K. Thigle, Addl.G.P. for Respondent Nos. 1 and 2.

Shri K. M. Suryawanshi, Advocate for Respondent Nos. 3 and 4.

Shri S. V. Natu, Advocate for the Respondent No. 5.

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

DATE : 19TH JUNE, 2015.

PER COURT :

. The petitioner assails the order dated 14.06.2011 passed by the Grievance Committee. So also seeks directions to hold the petitioner's date of appointment as 05.01.2001 and that he is entitled for continuity in service, increments, arrears, seniority and backwages applicable from the date of appointment.

2. Mr. Kale, the learned counsel for the petitioner has placed on record the pursis stating that, the petitioner would not claim backwages/monetary benefits for the period, the petitioner was not absorbed i. e. from 02.11.2001 to 13.12.2006. The said statement and pursis is accepted.

3. Mr. Kale, the learned counsel submits that, the petitioner was appointed on 05.01.2001 as a lecturer with the respondent No. 5/college. The learned counsel submits that, the appointment of the petitioner was also approved by the university. Subsequently, the petitioner was not allowed to work, though the Government had issued letter dated 04.11.2004 directing the college to absorb the lecturers like the petitioner. The learned counsel submits that, the petitioner had to file writ petition, wherein this Court directed the authorities to decide said representation. Thereafter, the petitioner has been absorbed on 14.12.2006. The learned counsel submits that, the respondents are considering the date of appointment of the petitioner as 14.12.2006 instead of 05.01.2001. According to the learned counsel, the petitioner's date of appointment has to be considered as 05.01.2001 continuously. It cannot be said to be a break of service. It is not case of termination and reinstatement. The petitioner is also entitled for all consequential benefits. The petitioner possesses M. Phil qualification on 25.05.2009 which is permissible and the petitioner is possessing necessary qualification for the said post. The petitioner on 05.01.2001 is appointed after undergoing due selection process.

4. Mr. Natu, the learned counsel for the respondent No. 5/college does not dispute that the petitioner was appointed after following due selection process and was not allowed to work further in view of the dictates of the university and the petitioner

was not possessing NET/SET qualification.

5. Mr. Suryawanshi, the learned counsel for the university states that, as the petitioner has not worked during intervening period, the date of appointment of the petitioner as 05.01.2001 cannot be considered.

6. The learned Additional Government Pleader states that, the Government had issued letter in the year 2004 for absorbing such candidates. However, as the petitioner has not worked till 13.12.2006 that period cannot be considered.

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

8. It is not disputed by any of the parties that, the petitioner was appointed on 05.01.2001 by following due selection process. The appointment of the petitioner is also approved by the university i. e. the competent authority.

9. It is also not a case of termination of service of the petitioner and subsequent fresh appointment. The Government has also issued directions to absorb such teachers/lecturers. It is also not matter of debate between the parties that, the petitioner possesses necessary qualification for the said post that is having passed M. Phil. In the light of that, there is no impediment to

consider the date of appointment of the petitioner as 05.01.2001 for the purpose of continuity in service and other consequential benefits.

10. In the light of the above, the order of the Grievance Committee is set aside. The respondents shall consider the date of appointment of the petitioner as 05.01.2001 for all purposes that is for continuity in service, increments, etc. However, the petitioner will not be entitled for monetary benefits/backwages till 13.12.2006. The writ petition accordingly is disposed of with aforesaid observations and directions. No costs.

[V. K. JADHAV, J.]

[S. V. GANGAPURWALA, J.]

bsb/June 15