

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**APPELLATE SIDE CIVIL JURISDICTION****WRIT PETITION NO. 4497 OF 2012**

Smt. Anita d/o. Kautikrao Desle

....Petitioner.

Vs.

The State of Maharashtra and ors

....Respondents.

Mr. Sai Chaugule i/by Mr. S.S. Deshmukh for the Petitioner.

Ms. S.S. Bhende, AGP for the Respondent No.1

Mr. S.G. Kudle for the Respondent Nos. 2 and 3.

**CORAM : SMT. VASANTI A. NAIK AND
C.V. BHADANG, JJ.**

DATE : 13.01.2015

P.C.:-

Rule. Rule is made returnable forthwith. The Petition is heard finally with the consent of the learned counsel for the parties.

By this Petition, the Petitioner seeks the implementation of the order of the Grievance Committee dated 15.03.2004 directing the Respondent No.3 to pay the arrears of salary to the Petitioner.

According to the Petitioner, since the Respondent-management had not paid the salary to the Petitioner as per the recommendation of the 5th Pay Commission and had paid only an amount of Rs.39525/-, the Petitioner had filed an Appeal before the Grievance Committee under the provisions of the Maharashtra Universities Act. The Grievance Committee

had, after hearing the parties, by the impugned order dated 15.03.2004 directed the Respondent-management to pay the arrears of salary as per the direction in the operative part of the order. According to the Petitioner, despite the order of the Grievance Committee, the management has not paid the salary to the Petitioner. It is stated that though the Petitioner continuously approached the Respondents on various occasions seeking the arrears of salary, the management failed to pay the same. The Vice Chancellor of the University had also directed the Respondent-management to clear the arrears of salary but the management failed to implement the order of the Grievance Committee.

It is stated on behalf of the Petitioner that the Respondent has not complied with the order of the Grievance Committee till date though the Committee has directed the management to pay the arrears of the salary in terms of the operative part of the impugned order. It is stated that various representations made by the Petitioner in regard to the payment of salary have fallen on deaf ears.

Smt. Bhende, the learned Assistant Government Pleader appearing on behalf of the State, submits that the Grievance Committee had directed the management to pay the arrears of salary as the College was not receiving grant-in-aid for certain period. The learned Assistant Government Pleader states that the management may be directed to implement the order of the Grievance Committee.

Shri Kudle, the learned counsel for the management, submitted that the Grievance Committee was not constituted in accordance with the provisions of Section 57 of the Maharashtra Universities Act and hence the decision of the Grievance Committee would not be binding on the management. It is stated that the Petitioner was appointed on clock hour basis and the services of the Petitioner, therefore, cannot be equated to the services of a regularly appointed employee. It is stated that there was no approval by the University to the appointment of the Petitioner and the prayer made by the Petitioner is liable to be rejected.

On hearing the learned counsel for the parties, it appears that the management was liable to pay the arrears of the salary as directed by the Grievance Committee. The management has not implemented the order of the Grievance Committee though the same has attained finality in the absence of any challenge to the same by the management. The management had never challenged the order of the Grievance Committee on the ground that the Grievance Committee was not properly constituted or on any other ground. If that be so, the order of the Grievance Committee is binding on the management and it was necessary for the management to follow the order of the Grievance Committee. Despite the direction by the Vice Chancellor, the management has failed to pay the arrears of salary to the Petitioner, as per the direction of the Grievance Committee. The submission of the management that the Grievance

Committee was not properly constituted and hence the decision of the Grievance Committee cannot be considered in the writ petition filed by the employee for implementation of the order of the Grievance Committee. If the management had any grievance about the decision of the Grievance Committee or about the constitution of the same, the Respondent/management ought to have challenged the same. Since the order of the Grievance Committee was never challenged, the same has attained finality. The question, whether the Petitioner was entitled to the salary or not also cannot be considered by this Court as the same issue was duly considered by the Grievance Committee and the order of the grievance committee has attained finality.

Hence, for the reasons aforesaid, the writ petition is allowed. The Respondent/management is directed to pay the arrears of salary as per the order of the Grievance Committee to the Petitioner within a period of four weeks.

Rule is made absolute in the aforesaid terms with no order as to costs.

(C.V. BHADANG, J.)

(VASANTI A. NAIK, J.)