

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**APPELLATE SIDE CIVIL JURISDICTION****WRIT PETITION NO. 11001 OF 2013**

Vala Shankar Singh, Age 61 years,
Residing at Flat No. 1003,
Bldg. No. D-4, Lok Upavan,
Phase II, Gladys Alvares Road,
Thane (West).

....Petitioner.

Vs.

- 1 Department of Higher and
Technical Education Through
its Director having its office
Near Sasun Hospital Central Building,
Station Road, Pune-01.
- 2 Department of Higher & Technical
Education Through its
Joint Director, having its office
at Elphinstone Technical
School Premises, Mahapalika
Marg, Mumbai 400 001.
- 3 Chembur Trombay
Education Society,
Through its Chairman
Near Subhash Nagar,
N.G. Acharya Marg,
Chembur, Mumbai-71.
- 4 N.G. Acharya & D.K.
Marathe College of Arts
Science & Commerce,
Through its Principal
Near Subhash Nagar,
N.G. Acharya Marg,
Chembur, Mumbai-71.

- 5 Mumbai University,
Through its Registrar,
M.G. Road, Fort,
Mumbai 400 032.
- 6 State of Maharashtra,
Through Department of
Higher Education,
Mantralaya Building,
Mumbai

....Respondents.

Mr. Mihir Desai for the Petitioner.

Ms. M.S.Bane, AGP for the Respondent Nos. 1,2 and 6.

Mr. A.L. Patki, for the Respondent Nos. 3 and 4.

Mr. Rui Rodrigues for Respondent No.5

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

DATE : 15th JANUARY 2015.

ORAL JUDGMENT (PER SMT. VASANTI A. NAIK, J):-

Rule. Rule, made returnable forthwith.

The Petition is heard finally with the consent of the parties.

By this Petition, the Petitioner seeks a direction to the Respondents to pay the salary for the period from 1.1.2012 to 31.7.2012 with 6% interest.

Few facts giving rise to the Petition are stated thus-

The Petitioner was appointed as a Lecturer with the Respondents Nos. 3 and 4-Management and retired from service on

attaining the age of superannuation on 31.12.2011. In view of the Government Resolution dated 23.2.2012, the Management sent the proposal of the Petitioner for extension of age of superannuation by a period of two years. The proposal of the Petitioner was sent to the Government with the recommendation of the University. By an order dated 9.7.2012, the State Government accepted the recommendation and passed an order granting extension of services of the Petitioner by two years.

It is the case of the Petitioner and it is not disputed by the Management that in view of the Government Resolution dated 5.3.2011, while the proposal of the Petitioner was pending before the University and the State Government, the Management permitted the Petitioner to perform his duties as a Lecturer on contract basis. It appears that the Petitioner served as a Lecturer in the Respondent Nos. 3 and 4 institution, despite his retirement on attaining the age of superannuation on 31.12.2011. The State Government released the salary of the Petitioner for the period from 1.8.2012 and declined to release the salary from 1.1.2012 to 31.7.2012. By this Petition, the Petitioner has sought a direction to the Respondents to release the salary for a period of 7 months.

Ms. Bane, the learned Assistant Government Pleader appearing on behalf of the State Government submitted that though the Petitioner attained the age of superannuation on 31.12.2011, the proposal of the Petitioner for grant of extension of retirement age was sent on 24.4.2012.

It is stated that till the proposal of the Petitioner was accepted by the State Government, the Petitioner was not entitled to work as a Lecturer and therefore, was not entitled for the salary for the said period.

Mr. A.L. Patki, the learned counsel for the Management supported the case of the Petitioner and admitted that the Petitioner had performed his duties as a Lecturer, even after attaining the age of superannuation on 31.12.2011.

On hearing the learned counsel for the parties, it appears that the Petitioner would be entitled to the salary for the period of 7 months from 1.1.2012 to 31.7.2012. There is no dispute in regard to the fact that the Petitioner had worked as a Lecturer for the period in question. The only objection of the State Government to the payment of salary for the period of 7 months is that the proposal of the Petitioner for extension of age was sent belatedly and the approval was granted in the month of July 2012. We do not find any force in the objection raised by the learned Assistant Government Pleader appearing on behalf of the State Government. Since the State Government has extended the age of superannuation of the Petitioner by two years and since there is no dispute that the Petitioner has worked as a Lecturer for the period from January to July 2012, there is no propriety in the action of the State Government in declining to release the salary for the said period.

Hence, for the reasons aforesaid, the Writ Petition is allowed. The Respondent Nos. 1 and 2 are directed to release the salary of the Petitioner for the period from 1.1.2012 to 31.7.2012 within a period of three months.

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

(C.V. BHADANG, J.)

(VASANTI A. NAIK, J.)