

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.526/2015

Dr. Vishakha Subhash Saoji and others

...Versus...

The State of Maharashtra, through its Secretary, Higher and Technical Education
Department, Mantaralaya, Mumbai – 32 and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri P.P. Puri, Advocate for petitioners
Ms Tajwar Khan, AGP for respondent nos.1 and 2

CORAM : SMT. VASANTI A. NAIK AND
A.I.S. CHEEMA, JJ.

DATE : 03.09.2015

By this petition, the petitioners seek a direction to the respondents to regularize the services of the petitioners and give the effect of permanency from the date of their initial appointment along with consequential benefits.

The petitioners were appointed by the respondents in the year 2002 and the petitioners are serving till date. It is stated on behalf of the petitioners that in similar set of facts where the appointments of lecturers were made in the departments of the Government Polytechnic in the State of Maharashtra, the services of the lecturers were protected in view of the judgment dated 19.10.2013 in Writ Petition No.2046/2010. It is stated that the facts involved in the decided cases are similar to the facts

involved in this case and the petitioners would also be entitled to the regularization of their services.

The learned Assistant Government Pleader appearing on behalf of the respondents states that no doubt the judgment dated 19.10.2013 in Writ Petition No.2046/2010 covers the issue, but in the instant case, in the order of appointment of the petitioners there was a condition that the petitioners' appointment would be subject to the availability of the candidates from the M.P.S.C.

On hearing the learned Counsel for the parties and on a perusal of the petition, it appears that the case of the petitioners herein stands squarely covered by the judgment dated 19.10.2013 in Writ Petition No.2046/2010 and the petitioners would also be entitled to the regularization of their services. The statement made by the learned Assistant Government Pleader that since there is a condition in the appointment order of the petitioners that the appointment of the petitioners is subject to the availability of the candidates from the M.P.S.C. the case would not be covered by the aforesaid judgment, is not well founded and is liable to be rejected. Merely because there is a condition in the appointment order, the case of the petitioners cannot be distinguished. The said fact could not be relevant for deciding the issue involved in this case, as the same stands decided by the judgment dated 19.10.2013 in Writ Petition No.2046/2010.

Hence, for the reasons aforesaid, the writ petition is partly allowed. The respondents are directed to regularize the services of the petitioners and confer permanency. The

respondents are directed to absorb the petitioners in service within a period of six weeks, on parity with the petitioners in Writ Petition No.2046/2010. Since the petitioners are in continuous employment, the petitioners should be continued in service as the regular employees. We direct the respondents to pay the regular salary to the petitioners from 1.9.2015. Though the petitioners would be entitled to continuity in service, the said continuity would be for purposes other than monetary purposes.

Order accordingly. No costs.

JUDGE

JUDGE

Wadkar