

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

WRIT PETITION NO.850/2015

Dr. Mamta Dattatraya Upagade

...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 petitioner
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 petitioner seeks a direction to the respondents to regularize the services of the petitioner and give the effect of permanency from the date of her initial appointment along with consequential benefits.

The petitioner was appointed by the respondents in the year 2002 and the petitioner is serving till date. It is stated on behalf of the petitioner 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 petitioner would also be entitled to the regularization of her 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 petitioner there was a condition that the petitioner's 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 petitioner herein stands squarely covered by the judgment dated 19.10.2013 in Writ Petition No.2046/2010 and the petitioner would also be entitled to the regularization of her services. The statement made by the learned Assistant Government Pleader that since there is a condition in the appointment order of the petitioner that the appointment of the petitioner 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 petitioner 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 petitioner and confer permanency. The respondents are directed to absorb the petitioner in service within

a period of six weeks, on parity with the petitioners in Writ Petition No.2046/2010. Since the petitioner is in continuous employment, the petitioner should be continued in service as a regular employee. We direct the respondents to pay the regular salary to the petitioner from 1.9.2015. Though the petitioner 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