

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4528 OF 1995

Prakash Jagannath Nagargoje,
Age-Major, Occu-Nil,
R/o Dutta Niwas, Raut Bunglow,
Tapneshwar Gully, At and Post.Jamkhed,
Dist. Ahmednagar

-- PETITIONER

VERSUS

1. The Principal,
Jamkehd Mahavidyalaya,
Jamkhed, Dist.Ahmednagar,
2. The President,
People's Education Society,
Jamkhed, Dist.Ahmednagar,
3. The Registrar,
Pune University,
Pune-7,
4. Nitin Ramdas Salve,
Lecturer in Botany,
Jamkhed Mahavidyalaya,
Jamkhed, Dist.Ahmednagar,
5. Sham Manik Baraskar,
Age-Major, Occu-Lecturer
in Botany,
Jamkhed Mahavidyalaya of
Peoples Education Society,
Jamkhed Taluka Jamkhed,
Dist.Ahmednagar

-- RESPONDENTS

Mr.Ajinkya Kale h/f Mr.S.B.Talekar, Advocate for the petitioner.
Mr.V.S.Bedre, Advocate for repsondent Nos. 1 and 2.
Respondent Nos. 3 to 5 are served.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 01/09/2016

ORAL JUDGMENT :

1. The petitioner is aggrieved by the judgment dated 20/01/1995 by which his Appeal No.56/1994 has been dismissed by the College Tribunal.

2. I have heard Mr.Kale, learned Advocate for the petitioner at length and Mr.Bedre, learned Advocate on behalf of respondent Nos. 1 and 2. None appears for respondent Nos. 3 to 5, though served.

3. I have considered the submissions of the learned Advocates and have gone through the petition paper book with their assistance.

4. The petitioner was aggrieved by his oral termination w.e.f. 01/07/1995. He preferred an appeal before the College Tribunal alleging unlawful termination and claimed reinstatement with continuity and full back wages for the period 01/03/1994 till 30/06/1995 and from 01/07/1995 till his reinstatement.

5. It is submitted that the respondent/Management published an

advertisement in 'Nagar Kesari' on 06/05/1991. One post of Lecturer in 'Botany' reserved for the SC category was advertised. One Mr.Bolbhat was selected. However, he did not join. The petitioner, therefore, filed an application on 23/07/1991 and he was appointed 'against category' on 24/07/1991 for one academic year 1992-93.

6. A similar advertisement was published on 29/05/1992. One post for Open and one post for Reserved Category in 'Botany' was available. The petitioner applied from the Open Category. He received the call letter dated 08/08/1992. He claims to have been selected from the Open Category as he did not belong to the SC category. However, the selection committee's report dated 16/08/1992, though initially indicated that the petitioner was selected from the Open Category, there were interpolations made subsequently and Mr.Baraskar, who belonged to the Open Category was shown to have been appointed from the said category. The petitioner was, therefore, shown to be against the reserved Category.

7. A similar advertisement was published on 04/07/1993 and a similar exercise was undertaken. The petitioner was not selected from the Open Category though he had applied.

8. Thereafter, there was again an advertisement in 1994 and Mr.B.K.Awchar was selected from the SC category to the post reserved for that category. The petitioner was not selected.

9. Again on 16/07/1995, there was a yet another advertisement and Mr.Nitin Salve was selected. The petitioner was not selected.

10. Contention is that the petitioner has worked continuously from 25/07/1991 till 30/06/1994 and as such, his oral termination dated 30/06/1994 deserves to be quashed and set aside.

11. Mr.Bedre, learned Advocate for the Management has strenuously supported the impugned judgment of the Tribunal.

12. I find from the facts emerging from the record that the petitioner had worked for 3 academic years against a reserved post. The Government Resolution dated 27/03/1991 permitting interchangeability of the reserved posts specifically provides for engaging candidates against the reserved categories if candidates from those categories are not available, for a period of 3 years in case of promotions and for a period of 5 years in case of direct recruitment. If candidates from the reserved categories are not

available for these posts, the said posts can be interchanged and can then be reserved for the next category as per the Rules.

13. The petitioner had worked for only 3 academic years, though he contends that he had worked till 1995. I find the said submission to be fallacious since he preferred his appeal in 1994 before the College Tribunal alleging termination and the impugned judgment is dated 01/01/1995.

14. In so far as alleged interpolations in the Selection Committee's report dated 16/08/1992 are concerned, the Tribunal has verified that the purported interpolations bear the signatures of some of the Committee members and therefore no fault can be found with the same. Nevertheless, it is informed that pursuant to the said selection report, none of the candidates were appointed and the petitioner had continued against the reserved category. I, therefore, do not find any perversity in the conclusion of the Tribunal.

15. Be that as it may, the petitioner has worked for 3 academic years against reserved category post and is out of employment for 21 years. Mr. Bedre submits on oral instructions that the Management has received some information which is yet to be verified that the

petitioner has been in employment and presently is the Acting Principal in the Chhatrapati Shivaji B.Ed. College. Mr.Kale clarifies that he was working in the said Institution for some period and not continuously till this date.

16. In the light of the above, since the Government Resolution dated 27/03/1991 is of no assistance to the petitioner and considering the fact that he had worked against a reserved category post for 3 academic years, I do not find that his disengagement could be termed as being illegal. For the said reasons, the impugned judgment does not appear to be perverse or erroneous.

17. This petition, being devoid of merit, is therefore dismissed.

18. Rule is discharged.

(RAVINDRA V. GHUGE, J.)