

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 5015 OF 2015

Dr. Nimba S/o Zopa Patil,
Age : 47 Years, Occu. : Service,
R/o 65, Ramkrishna Nagar,
Nakane Road, Deopur, Dhule,
Tq. & Dist. Dhule .. Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Higher Education Department,
Mantralaya, Mumbai.
2. Director of Higher Education
Maharashtra State, Pune.
3. Joint Director of Higher Education,
Jalgaon Region, Jalgaon.
4. North Maharashtra University,
Jalgaon, through its Registrar.
5. The Principal,
Krantiveer Navalbhau Arts College,
Naval Nagar, Dhule,
Tq. & Dist. Dhule. .. Respondents

Shri Ankush N. Nagargoje, Advocate for the Petitioner.
Mrs. A. V. Gondhalekar, Addl.G.P. for Respondent Nos. 1 to 3.
Shri Y. B. Bolkar, Advocate h/f Shri A. B. Girase, Advocate for
the Respondent No. 4.
Shri S. R. Barlinge, Advocate for the Respondent No. 5.

**CORAM : S. V. GANGAPURWALA AND
K. L. WADANE, JJ.
DATE : 24TH NOVEMBER, 2016.**

ORAL JUDGMENT (*Per S. V. Gangapurwala, J.*) :-

. Rule. Rule made returnable forthwith. With the consent of parties taken up for final hearing.

2. Mr. Nagargoje, the learned counsel for the petitioner submits that, the petitioner was appointed for the first time with the respondent No. 5/college in the year 1993 on clock hour basis. Thereafter again the petitioner was appointed in the year 1994 as part time and in June 1995 the petitioner was appointed as full time lecturer in defence subject. The learned counsel submits that, for the first time when the petitioner was appointed on clock hour basis, the petitioner had undergone selection process as contemplated. Even in the year 1994, the petitioner had undergone selection process. So also is the case in the year 1995. According to the learned counsel in the year 1995 an advertisement was issued for appointment of full time lecturers for various subjects. The defence subject was one of them. Many such lecturers were appointed as full time lecturers along with the petitioner in different subjects.

3. The proposal was submitted by the institution seeking approval to the appointments of various lecturers. All other

lecturers were granted permanent approval from 1995-1996, however, the petitioner was granted permanent approval from the year 1996-1997. According to the learned counsel petitioner represented to the respondents for grant of permanent approval to his appointment, but of no avail. The petitioner also approached the grievance committee. The grievance committee considered grievance of the petitioner and came to be conclusion that, the petitioner is entitled to be granted approval as full time lecturer since the year 1995-1996. The university has not accepted the same only on the ground that in respect of work load of defence subject there is overwriting. The college was started in the year 1993-1994. Four clock hours were available for defence subject in that year. Thereafter in the year 1994-1995 work load of eight clock hours was available and in the year 1995-1996 work load of twelve clock hours was available. The same was sufficient for appointment of a full time lecturer. The learned counsel submits that, even the management of the respondent/college had categorically represented that, twelve lectures were available in defence subject in the year 1995-1996. The document sent by principal are also placed on record. As such, the petitioner was required to be granted approval from the year 1995-1996.

4. Mr. Bolkar, the learned counsel for the university submits that, in fact there is no clear statement about availability of

twelve clock hours for the defence subject in the year 1995-1996. As such, the university could not have granted approval to the appointment of the petitioner as full time lecturer from the year 1995-1996, however, granted the approval as full time lecturer from 1996-1997.

5. The learned Additional Government Pleader submits that, advertisement was issued in the year 1993. The petitioner was appointed as part time lecturer. The same has been rightly considered.

6. We have also heard Mr. Barlinge, the learned counsel for the respondent No. 5/college.

7. It is not disputed that the petitioner has been granted approval as full time lecturer since the year 1996-1997. The dispute is only to the extent that, whether the petitioner can be granted approval as full time lecturer from the year 1995-1996. The aspect of availability of work load is to be determined by the Joint Director of Higher Education. As per the contention of the university, there was some overwriting with regard to work load. The letter issued by the principal of the college is placed on record stating that twelve clock hours were available for the defence subject in the year 1995-1996. There was no impediment to grant approval to the appointment of the petitioner as full

time lecturer since the year 1995-1996 considering extent of availability of work load.

8. Considering the above, the respondent No. 4/university shall reconsider the case of the petitioner seeking grant of approval to his appointment as full time lecturer from the year 1995-1996 and part time lecturer from 1994-1995. The Joint Director of Higher Education shall confirm about the availability of the work load in defence subject with the respondent No. 5/college from the year 1995-1996 within a period of three (03) months from today and communicate the same to the university. The university on receipt of the same shall reconsider the proposal seeking approval to the appointment of the petitioner as full time lecturer from 1995-1996 expeditiously and preferably within a period of one (01) month from the date of receipt of availability of work load from the Joint Director of Education.

Rule accordingly is made absolute in above terms. No costs.

Sd/-

[K. L. WADANE, J.]

Sd/-

[S. V. GANGAPURWALA, J.]