

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

WRIT PETITION NO. 11615 OF 2015

Suhas Deoram Tayade

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri S. R. Barlinge, Advocate for the Petitioner.

Mrs. M. A. Deshpande, 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.

**CORAM : S. V. GANGAPURWALA AND
K. L. WADANE, JJ.**

DATE : 07TH OCTOBER, 2016.

PER COURT :

. The petitioner is assailing the order dated 11/12.02.2015 whereby the claim of the petitioner for being governed by the old pension scheme and not by the Defined Contributory Pension Scheme (for short "D.C.P.S.") is turned down. The proposal was submitted by the respondent No. 5/college for considering the petitioner under the old pension scheme. The same is turned down on the ground that the proposal did not state as to when the petitioner was brought on grant in aid basis.

2. Mr. Barlinge, the learned counsel for the petitioner submits

that, after the said order was passed by the Joint Director of Higher Education, the respondent No. 5 submitted details that the present petitioner is brought on grant in aid basis since the year 1998 and the appointment of the petitioner is from 01.07.1995. According to Mr. Barlinge, the learned counsel the Joint Director of Higher Education did not pass any order.

3. Mr. Bolkar, the learned counsel for the university submits that, the appointment of the petitioner is approved since the date of his appointment that is since the year 1995 and the petitioner was working on grant in aid basis since the year 1998.

4. The learned Additional Government Pleader submits that, as the petitioner was not possessing NET and CET qualification and has passed the M. Phil in the year 2008, the petitioner would be governed by the D.C.P.S. The reliance is placed by the learned Addl. G. P. on the Government Resolution dated 27.06.2013.

5. Perusing the impugned order, it is manifest that, the Joint Director of Higher Education did not consider the proposal submitted by the respondent No. 5 in respect of the petitioner for grant of provident fund account number on the ground that, it is not clear as to from which date the petitioner is working on grant in aid basis. It appears that, at the relevant time when the proposal was submitted, the respondent No. 5 had not submitted

relevant documents. Subsequently the order being passed, the respondent No. 5 has clarified to the Joint Director of Higher Education about the fact that, the petitioner is brought on grant in aid in the year 1998 and the date of appointment of the petitioner is 01.07.1995. This aspect was not before the Joint Director of Higher Education, when he passed the order.

6. Considering the above, the impugned order is quashed and set aside. The Joint Director of Higher Education, Jalgaon Division shall consider the petitioner as having appointed on 01.07.1995 and that he was brought on grant in aid basis in November 1998 and shall reconsider the proposal for providing provident fund account number on its own merits, expeditiously and preferably within a period of six (06) months from today. The parties may represent themselves before the Joint Director of Higher Education, Jalgaon, if they choose so. With these directions and observations the writ petition is disposed of. No costs.

[K. L. WADANE, J.]

[S. V. GANGAPURWALA, J.]