

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

WRIT PETITION NO.1268 OF 2013
WITH
CIVIL APPLICATION (CAO) NO.1431 OF 2016
IN/WITH
MISC. CIVIL APPLICATION ST. NO.13718 OF 2016
IN
WRIT PETITION NO.1268 OF 2013

Sudhakar s/o Shankarrao Lade

-vs-

Union of India, Thr. its Secretary, Human Resource Dept. Delhi and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri C. B. Dharmadhikari, Advocate for
petitioner/applicant.

Shri A. D. Sonak, AGP for respondent Nos.5 and 7.

Shri J. B. Kasat, Advocate for respondent No.8.

Shri Abhijit Deshpande, Advocate for respondent
Nos.9 and 14.

Shri P. C. Marpakwar, Advocate for respondent
No.11.

Shri H. N. Verma, Advocate for respondent Nos.12
and 13.

CORAM : PRASANNA B. VARALE J.

DATE : October 13, 2016

Shri C. B. Dharmadhikari, the learned counsel appearing for the petitioner/applicant submits that the petitioner is not pressing the Civil Application No.1431/2016 for condonation of delay and Misc. Civil Application St. No.13718/2016 for recalling the order of Registrar (Judicial) dated 27/04/2016 dismissing the petition against respondent Nos.1 to 4. Both the applications are disposed of accordingly.

On hearing the learned counsel Shri Dharmadhikari for the petitioner for sometime, it reveals that though the petitioner has raised various grounds in the petition, the ultimate challenge is to the order passed by the Grievance Committee dated 30/07/2011. Shri Dharmadhikari then fairly submitted that the focus of his submission would be on the order passed by the Grievance Committee in Appeal No.3/2009 dated 30/07/2011. He submitted that as the Grievance Committee failed to consider various submissions of the petitioner, the order of the Grievance Committee is clearly unsustainable on solitary ground viz. the inadequate number of members of the Grievance Committee. As such the quorum of the Grievance Committee was not complete in view of the provisions of the Maharashtra University of Health Sciences Act.

Shri Dharmadhikari, the learned counsel by relying upon the judgments of this Court in W.P.Nos.6767/2013 and 4254/2015 submitted that in identical situation, this Court considered this aspect of the matter and partly allowed the petitions filed by the petitioners and remanded back the matters to the Grievance Committee for deciding afresh.

Shri Abhijit Deshpande, the learned counsel appearing for respondent Nos.9 and 14 fairly submitted that in view of the factual aspects viz. the quorum not being complete as per the provisions of the Act, the matter be remanded back to the Grievance Committee for deciding afresh. Shri Deshpande the learned

counsel also made available the copy of the proforma of application before the Grievance Committee presented by the petitioner. The same is taken on record and marked 'X' for identification.

The issue for consideration before the Grievance Committee and the nature of grievances as submitted in the proforma application by the petitioner is non grant of salary, increment, promotion and back-wages as per the Government Rules.

The perusal of the order passed by the Grievance Committee shows that on 30/07/2011 the Grievance Committee considering the grievance of the petitioner was consisting of four members viz. Dr A. P. Kulkarni, Pro Vice Chancellor, Dr Gajanan Ekbote, Member, Dr Uday Bodhankar, Member and Dr A. N. Suryakar, Member/Secretary. It further shows that two members viz. Dr Mansing Pawar and Dr S. D. Dalvi by fax communication and by telephonic communication respectively informed about their inability to attend the proceedings before the Grievance Committee.

It would not be out of place to refer to the order of this Court in W.P. No.6767/2013. It was the submission before this Court by the learned counsel for the petitioner that according to Section 53 of Maharashtra University of Health Sciences Act, the required quorum of the Grievance Committee is of six members. One Pro-Vice Chancellor being the Chairman of the Grievance Committee and four members of the management Council and the Registrar. But the Registrar of the

University does not have the power to vote. In W.P. No.6767/2013 an identical situation viz. two members of the Grievance Committee expressed their inability to attend the proceedings in advance by communication is referred to. This Court on the backdrop of the submission of the learned counsel that in view of inadequate members forming the Grievance Committee, the decision of the Grievance Committee is unsustainable. Judgment of this Court in case of *Shivaji Education Society and anr. vs. Maharashtra University of Health Sciences and ors. reported in 2015(1) ABR 15* was relied upon. This Court considering all these aspects was of the opinion that it would be in the interest of the parties if the matter is remanded back to the Grievance Committee for fresh decision with the required and appropriate members constituting quorum of of the Grievance Committee as provided under the provisions of Maharashtra University of Health Sciences Act particularly Section 53.

Resultantly as there is no reason to take any further or different view, the present petition is also disposed of on the same line as in W.P.Nos.6767/2013 and 4254/2015.

The writ petition is partly allowed. Report of the Grievance Committee dated 30/07/2011 and resolution passed by the Management Council in the meeting dated 22/08/2011 bearing Resolution No.195 of 2011 are set aside.

The Grievance Committee by affording opportunity

of hearing to the parties if request is made by the parties by written submission, shall hear the parties and take a decision afresh and then report to the Management Council for further appropriate action.

As the petitioner was before the Grievance Committee in the year 2011 itself and the order of the Grievance Committee of the year 2011 was under challenge before this Court, it seems that initially approaching the Division Bench of this Court and then the petition was submitted before this Court for consideration. Considering this fact the Grievance Committee to decide the appeal of the petitioner as expeditiously as possible.

The petition is disposed of accordingly.

JUDGE