

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

WRIT PETITION NO. 1291 OF 2016

Vaidya Sushil Vilas Chawre

-vs-

State of Maharashtra, thr.its Secretary, Ministry of Medical Education & Drugs and another

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

Court's or Judge's Orders.

Mr. P.M.Pande, counsel for the petitioner.
Ms Ritu Kaliya, AGP for the respondents.

CORAM : SMT. VASANTI A. NAIK &
MRS. SWAPNA JOSHI, JJ.

DATE : 23.06.2016.

By this writ petition, the petitioner seeks a direction to the respondents to absorb/regularize the services of the petitioner on the post of Assistant Professor in the subject of Kaya Chikitsa.

The petitioner claims that in view of the requisite qualifications possessed by him, the petitioner was appointed as an Assistant Professor in the subject of Kaya Chikitsa on *ad hoc* basis on 06/02/2009 by following the due selection process. The petitioner continued to work as an Assistant Professor in the subject of Kaya Chikitsa in Government Ayurvedic Colleges at Usmanabad, Nanded and Nagpur continuously from 06/02/2009 till date, with some artificial breaks. According to the petitioner, the initial appointment of the petitioner in February, 2009 was made after following the due process of selection. According to the petitioner, since the petitioner is working from 06/02/2009 as an Assistant Professor in the subject of Kaya Chikitsa in the Government Ayurvedic Colleges, it would be necessary for the respondents to regularize the services of the petitioner as an Assistant Professor in the subject of Kaya Chikitsa. It is stated that the issue involved in this case was also involved in Writ Petition No.8118 of 2015 (Vaidya Mayur Ramesh Deshmukh v. State of Maharashtra and one

another) and the Aurangabad Bench of this Court has, by the judgment, dated 25/02/2016, directed the respondents to regularize the services of the petitioners therein. It is stated that the facts involved in the said decision and the present writ petition are identical and hence the relief granted in favour of the petitioner in the said writ petition should be granted in favour of the petitioner herein, on parity.

Ms Ritu Kaliya, the learned Assistant Government Pleader appearing for the respondents, states that the services of the petitioner cannot be regularized, as he was temporarily appointed from time to time on the post of Assistant Professor on *ad hoc* basis, as all the posts of Assistant Professors in Government Ayurvedic Colleges could not be filled by following the procedure of selection through the Maharashtra Public Service Commission. It is, however, fairly admitted that the facts and the issue involved in this petition was also involved in Writ Petition No.8118 of 2015 that was decided by the Aurangabad Bench on 25/02/2016 in favour of the petitioner therein.

We have heard the learned counsel for the parties and have perused the judgment, dated 25/02/2016 in Writ Petition No.8118 of 2015. We find that the facts involved in the said case and the present case are almost identical and same procedure was adopted while appointing the petitioner herein and the petitioner in Writ Petition No.8118 of 2015 in February, 2009. We find that there is a difference of only one or two days in the appointment orders that were issued to the petitioner herein and the petitioner in Writ Petition No.8118 of 2015. Since in almost identical set of facts, this Court has, by the judgment, dated 25/02/2016, allowed Writ Petition No.8118 of 2015, it would be necessary, as rightly submitted on behalf of the petitioner, to allow this writ petition also, on parity.

Hence, for the reasons recorded in the judgment, dated 25/02/2016 in Writ Petition No.8118 of 2015, we allow this writ petition. The respondents are directed to regularize the services of the petitioner on the post of Assistant Professor in the subject of Kaya Chikitsa. The petitioner would be entitled to regular salary that is

payable to the post of Assistant Professor in the subject of Kaya Chikitsa with effect from 01/07/2016. The petitioner would not be entitled to claim monetary benefits in respect of past services rendered by him, except continuity of service and regularization. It is made clear that though the petitioner would be entitled to continuity of service, with effect from the date of his initial appointment on 06/02/2009, the petitioner would not be entitled to claim the arrears of difference in salary or any other monetary benefits flowing from the order of continuity of service.

Order accordingly. No costs.

JUDGE

JUDGE

KHUNTE