

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

WRIT PETITION NO. 269 OF 1998

Mrs.Khutija Yasmin Quraishi
w/o Shaikh Waheed,
Age : 35 years, Occupation : Nil,
R/o H.No.1011, Gawlipura,
Cantonment, Aurangabad.

...PETITIONER

-VERSUS-

- 1 The State of Maharashtra.
Through Government Pleader,
High Court, Aurangabad.
- 2 Ranbar Educational, Cultural &
Welfare Society, Shakir Manzil,
Near HPO, Junabazar, Aurangabad.
Through its Secretary.
- 3 Sir Syed College of Arts, Commerce
and Science, Aurangabad.
Through its Principal.
- 4 The Registrar,
Dr.Babasaheb Ambedkar Marathwada
University, Aurangabad.
- 5 The Presiding Officer,
University and College Tribunal,
Dr.Babasaheb Ambedkar Marathwada
University, Aurangabad.
- 6 The Joint Director,
Higher Education (Grants),
Station Road, Aurangabad.

...RESPONDENTS

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Advocate for Petitioner : Ms. A.N.Ansari.
AGP for Respondents 1 and 6 : Ms.S.S.Raut.
Advocate for Respondents 2 and 3 : Shri S.R.Barlinge.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 10th February, 2017

Oral Judgment :

1 Respondent No.5/ Presiding Officer, University and College Tribunal, which is a formal party, stands deleted from the proceedings.

2 The Petitioner is aggrieved by the order dated 30.07.1997 delivered by the University and College Tribunal by which Miscellaneous Application No.4/1997 in Appeal No.M-21/1996 filed under Section 63(1) of the Maharashtra Universities Act, 1994 has been rejected.

3 The Tribunal dismissed the Petitioner's Appeal No.M-21/1996 vide judgment dated 01.07.1996 and sustained the order of termination dated 15.03.1994.

4 The Petitioner is said to have joined a new organization after the dismissal of her appeal, namely, Maulana Azad College at Aurangabad. It is further submitted that during the pendency of this petition, the Petitioner has passed away. The legal heirs of the Petitioner have not been

brought on record.

5 Notwithstanding the above, it appears from the judgment of the Tribunal dated 01.07.1996 that the post on which the Petitioner was appointed was reserved for the Scheduled Tribe (ST) category and she did not belong to that category. Obviously, such an appointment against a post reserved for a particular category, is on year to year basis. An appointee, who does not belong to the particular category for which the post has been reserved, does not get a right to seek regularization on the said post.

6 The Tribunal has observed that the Petitioner should be paid her salary and allowances, if not already paid, from the date of joining as a lecturer in the college. In order to enforce the said right, the Petitioner had preferred Miscellaneous Application No.4/1997. The Tribunal concluded in the impugned order dated 30.07.1997 that the said observation was not a specific direction. Needless to state, the Petitioner was permitted to approach the Joint Director of Higher Education for claiming arrears of salary, if not paid, in paragraph 9 of the judgment dated 01.07.1996. On this count, I do not find that the impugned judgment of the Tribunal could be termed as being perverse or erroneous.

7 As such, in the event, the salary is not paid for any duration

during which the Petitioner had worked with the Respondent/ College, her legal heirs would be at liberty to approach the Joint Director of Higher Education and in the event, such representation is filed within FOUR WEEKS from today, the Joint Director of Higher Education shall consider the same and after hearing all the sides, decide the said representation within a period of EIGHT WEEKS from the date of receipt of such representation.

8 This Writ Petition, with the above observation, stands abated. Rule is discharged.

kps

(RAVINDRA V. GHUGE, J.)