

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

WRIT PETITION NO. 1350 OF 1993

Rajpal Chandranath Badade,
Age : 40 years, Occupation : Nil,
R/o Ausa Road, Latur,
District Latur.

...PETITIONER

-VERSUS-

- 1 Shiv Chhatrapati Shikshan Sanstha.
Through its Secretary
Shri Narayan Patil,
Age : 58 years,
Occupation : Advocate, Latur,
District Latur.
- 2 Rajarashi Shahu Mahavidyalaya,
Latur. Through its Secretary,
Shri Janardhan Madhavrao Waghmare,
Age : 53 years, Occupation : Service,
R/o Latur, District Latur.
- 3 The Principal,
Rjarashi Shahu Mahavidyalaya,
Latur, District Latur.
- 4 The Registrar,
Marathwada University,
University Campus, Aurangabad.
- 5 The Presiding Officer,
College Tribunal, Marathwada,
Nagpur and Amravati University,
University Campus, Aurangabad.
- 6 The State of Maharashtra.
Copy to be served on Government
Pleader, High Court of Bombay,

Bench at Aurangabad.

- 7 Swami Ramanand Teerth
Marathwada University,
Nanded.

...RESPONDENTS

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Advocate for Petitioner : Shri V.D.Hon, Senior Advocate a/w Shri
V.G.Sakolkar, Advocate.

Advocate for Respondents 1 to 3 : Shri V.D.Salunke a/w Shri S.S.Manale.

AGP for Respondent 6 : Shri N.T.Bhagat.

Advocate for Respondent 7 : Shri U.S.Malte.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 10th February, 2017

Oral Judgment :

1 Respondent No.5 is the University and College Tribunal,
which is not a necessary party and hence, stands deleted from the
proceedings.

2 By this Writ Petition, the Petitioner/ original Appellant seeks
to challenge the judgment of the University and College Tribunal dated
30.01.1990 by which, his Appeal No.M-10/1987 has been dismissed.

3 There is no dispute that the Petitioner had approached the
Tribunal for challenging his removal from service.

4 This Writ Petition was admitted on 15.04.1993. Since no interim relief was granted, the Petitioner has attained the age of superannuation by passage of time considering his date of birth as 08.01.1949.

5 Shri Hon, learned Senior Advocate along with Shri Sakolkar, learned Advocate for the Petitioner, submit on instructions from the Petitioner who is present in the Court, that considering the passage of time, he is not challenging the departmental enquiry and the findings of the Enquiry Officer. Moreover, since the Petitioner had tendered an apology on 06.07.1987 and 13.07.1987 which was taken into account by the Management while converting his proposed punishment of dismissal from service into a simple removal from service, he would not prefer to raise the entire issue in this petition.

6 Shri Hon further submits on instructions that since the Respondent/ Management, which has proposed the punishment of dismissal from service, has scaled down the punishment and has simply discharged the Petitioner from service, the interest of the Petitioner now surviving is with regard to his retiral benefits.

7 Shri Salunke, learned Advocate appearing on behalf of the

Respondent/ Management, submits that the Management had shown magnanimity in the light of the apology tendered by the Petitioner. It had, therefore, avoided awarding the punishment of dismissal from service and instead, had simply discharged the Petitioner from employment by using the term “removed from service”. He, therefore, submits that the Petitioner would be entitled to the retiral benefits in accordance with his service conditions. The College in which the Petitioner was working is a grant-in-aid institution and hence, the retiral benefits, if payable to the Petitioner, would be under the approval of the competent education Department.

8 Since the enquiry and the findings of the Enquiry Officer are not being assailed and considering the apology tendered by the Petitioner, which was taken into account by the Management while discharging him from service, which the Petitioner now accepts, this Writ Petition can be disposed of.

9 In the light of the above, this Writ Petition is disposed of. In the event, the Petitioner is entitled to his retiral benefits considering the fact that he was not dismissed from service on account of moral turpitude and was simply removed from service, the Respondent/ Management shall forward the proposal of the Petitioner for retiral benefits to the

appropriate Department, which is the Deputy Director of Higher Education, Nanded Region, Nanded, with in a period of SIX WEEKS from today. After receiving the said proposal, the concerned Department shall consider the same in accordance with the Rules and pass an appropriate order.

10 Rule is discharged.

kps

(RAVINDRA V. GHUGE, J.)