

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.10668 OF 2015**Vijaya d/o Pandurang Panchal Vs. The State of Maharashtra
and others.**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.S.B.Gastgar, advocate for the petitioner.
 Mr.M.B.Bharaswadkar, A.G.P.for the State.
 Mr.M.P.Kale, advocate holding for Mr.B.A.Shinde,
 advocate for Respondent No.5.

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

Date : 20.02.2017.

PER COURT :

1. Heard.
2. Mr.Gastgar, learned counsel states that petitioner is appointed initially as a part time Librarian on 22.8.1992. The said appointment was against clear vacant post. As per Section 5(2) of the MEPS Act, on successful completion of the probation period, the petitioner would be confirmed employee. Vide order dated 9.11.1996, the petitioner was confirmed as a permanent employee. The learned counsel submits that the strength of the School was always above one thousand. The petitioner is entitled to the benefit of Government Resolution dated 28.6.1994 which says that if the

strength of the students in the School is above one thousand then one post of full time Librarian is admissible. The learned counsel submits that Respondent Education Officer did not consider the contention of the petitioner. The petitioner is entitled to be considered as a full time Librarian since the date of the appointment and consequently is entitled for all pensionary benefits. Learned counsel relies on the judgment of the Division Bench of this Court at Nagpur dated 28.1.2015 in W.P.No.6630/2013 with connected Writ Petitions.

3. Mr.Kale, learned counsel for the institution submits that the petitioner became full time Librarian in the year 2006.

4. Learned A.G.P. submits that the petitioner became eligible for the post of full time Librarian in the year 2006 i.e. 1.4.2006. The petitioner has worked as a part time Librarian from 22.8.1992 to 31.3.2006. Learned A.G.P. relies on the judgment of the Division Bench of this Court at Aurangabad dated 31.3.2015 in Writ Petition No.2311/2013.

5. The petitioner was absorbed as a full time Librarian pursuant to the Government Resolution dated 3.8.2006. It is a matter of record that the petitioner was working as a part time Librarian earlier. In view of the Government Resolution dated 3.8.2006, the petitioner was given benefit and was approved as a full time Librarian from 1.4.2006. The condition of strength of

students for appointment of part time Librarian was scaled down from minimum one thousand students to 500 students as per G.R. dated 1.4.2006 and it is by virtue of the said G.R., the petitioner was benefitted. Considering the said G.R., the appointment of the petitioner was fresh appointment as full time Librarian with effect from 1.4.2006. The Division Bench of this Court held that the persons who have got benefit of full time appointment pursuant to G.R. dated 3.8.2006, would not be entitled for computing their earlier services rendered as part time and in view of the G.R. dt. 1.11.2005, the petitioner would not be entitled for pensionary benefits.

6. In view of that, the grievance of the petitioner can not be considered. As such the Writ Petition is disposed of. No costs.

(K . L . WADANE , J .)

(S . V . GANGAPURWALA , J .)

Dt.20.02.2017.

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