

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

BENCH AT AURANGABAD.

WRIT PETITION NO.965 OF 2016

Narendra Sumerchand Sharma ...Petitioner.

Versus

The State of Maharashtra
and others. ... Respondents.

...

Mr.V.P.Patil, advocate for the petitioner.
Mr.S.W.Munde, A.G.P. for the State.

...

**CORAM : S.V.GANGAPURWALA AND
S.M.GAVHANE, JJ.**

Date : 08.11.2017.

PER COURT :

1. Mr.Patil, learned counsel submits that while passing the impugned order, refusing to condone the break in service, the authority was under the impression that appointment of the petitioner is on clock hour basis, however, the appointment of the petitioner was on clear vacant post and was in fact, appointed on probation. According to the learned counsel, the workload of

full time lecturer was available and even the appointment order does not state that the petitioner is appointed on clock hour basis.

2. We have heard learned A.G.P.

3. The impugned order observes that the petitioner was appointed on clock hour basis. The appointment order placed before us does not specifically show that the petitioner was appointed on clock hour basis. It appears that the petitioner was appointed on a clear vacant post. The said aspect will have to be considered by the Joint Director of Higher Education. It will be for the petitioner to place the entire record and the relevant Government Resolutions/Circular before the authority.

4. The impugned order is quashed and set aside. The matter is relegated before the Joint Director of Higher Education. The petitioner may appear before the Joint Director of Higher Education on 29.11.2017. The petitioner shall place all the relevant material on record before

the Joint Director of Higher Education. The Joint Director of Higher Education shall thereafter after hearing the petitioner decide the aspect of condonation of break in service of 66 days afresh on its own merits expeditiously, preferably within four (4) months from the date of appearance.

5. The Writ Petition is accordingly disposed of. No costs.

(S.M.GAVHANE, J.)

(S.V.GANGAPURWALA, J.)

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