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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6080 OF 2005

Mr. Kiran Jaydeo Save	.. Petitioner
Vs.	
The Principal, S. D. Arts, V. S. Apte Com. & M. H. Mehta Science College & ors.	.. Respondents

Mr. Mihir Desai, Senior Counsel for the Petitioner.
Mrs. K. R. Kulkarni, AGP for Respondent no.5.
Mr. Rui Rodrigues, for Respondent no.3/University.

**CORAM : A.A.SAYED AND
M.S.KARNIK, JJ.**

6th JULY, 2017

P.C. :

The case of the petitioner is that he is M. A. in Philosophy (First Class) and has completed his SET examination and has acquired his Ph. D and thus he is qualified to teach Philosophy.

2. From 1989 the post of Lecturer in Philosophy at Respondent no.1 College was advertised as reserved category.

The said post was advertised as reserved category for 8 years. As no reserved category candidate was available the Petitioner was appointed to the said post by a duly constituted Selection Committee of the University on 11.10.1996. He has been continuously working for more than 20 years, regularly approved by the University and paid by the Department of Higher Education.

3. The Petitioner's services were sought to be terminated on 15/4/1997. The Petitioner challenged the said termination order by preferring Appeal No.31 of 1997 before the Mumbai University and College Tribunal. By an order dated 19/11/1997, the Tribunal was pleased to allow the Petitioner's Appeal and the Petitioner was reinstated as the Respondent no.1-College had already taken steps to de-reserve the post. The Respondent no.3-University made a statement before the Tribunal that the proposal of Respondent no.1- College had been approved by the University and the same was forwarded to the Government.

4. In June 2005, the Petitioner's post was advertised as open category post. Aggrieved by the same the Petitioner approached this Hon'ble High Court and this Court was pleased to grant a stay on the said advertisement.

5. In the meanwhile, on 10/4/2010, the Petitioner was appointed as Vice Principal of Respondent no.1-College and on 14/2/2017 the Petitioner was appointed as In-charge Principal.

6. On 31/10/2011, the Director of Higher Education recommended that the Petitioner's post be de-reserved. Further, on 31/2/2013, the Director of Higher Education again recommended to the Secretary that the Petitioner's post be de-reserved, but till date no action has been taken on the said recommendation of the Director of Higher Education.

7. Thus, the Petitioner is fully qualified and has been employed on the said post for more than 20 years. The said post has been advertised on 8 occasions as reserved. The Respondent no.1-College has sent the proposal for de-reservation, which has

been duly approved by Respondent no.3-University and the Director of Higher Education has also recommended de-reservation twice.

8. In light of the above, the Respondents are directed to de-reserve the post of Lecturer (Philosophy) held by the petitioner w.e.f. 11/10/1996 and to regularise the petitioner's services in the said post w.e.f. 11/10/1996 along with all consequential benefits including but not restricted to confirmation w.e.f. 11/10/1998. The respondent shall examine as to whether the petitioner is entitled to senior scale and selection grade on the basis that his services are to be regularized w.e.f. 11/10/1996 and take appropriate decision in that regard within period of twelve weeks. In a somewhat similar facts the Division Bench of this Court in the case of **Ruchira S. Manjrekar vs. Principal, D.G. Ruparel College of Arts, Science and Commerce and others (2014 (3) Mh. L.J. 487)** directed the Respondents to de-reserve the post.

9. The Petition is allowed in aforesaid terms. Rule made

absolute accordingly. It is clarified that the post of Lecturer (Philosophy) occupied by the Petitioner shall be reverted as a reserved post upon the retirement of the Petitioner.

(M.S.KARNIK, J.)

(A.A.SAYED, J.)