

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2468 OF 2001

Dr.Veena R. Gurjar .. Petitioner
Vs.
State of Maharashtra and ors. .. Respondents

Mr.Prashant Karande, for the Petitioner.
Mr.Kaushal Trivedi, AGP for State.

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

29th JUNE, 2017

PC. :

. The petitioner has challenged the order dated 07/09/2001 passed by respondent No.4 – Deputy Director of Education whereby she has been denied approval to her appointment as a Lecturer in Political Science. The petitioner is seeking protection of her services and approval of her appointment and payment of monetary benefits. The petitioner has prayed that the post of Lecturer in Political Science occupied by her be de-reserved.

2. The petitioner has passed her M.A.B.Ed and has also acquired Ph.D degree. She was initially appointed on 21st November

1994 in respondent No.3 Ruia College as a Lecturer on temporary basis against a reserved post in the subject of Political Science. She was continued in service from year to year. According to the petitioner, despite advertisements and interviews, no suitable candidates from the reserved category were available. In an earlier round of litigation, this Court in Writ Petition No. 2080 of 2000 had passed an order on 23/04/2001 whereby it was directed that Shikshan Scheme will not be applied to the petitioner and she will be continued to be paid as per her old scale.

3. In the present Petition, this Court passed an order on 26/04/2002, paragraph 3 whereof reads as follows :

“Keeping in view the aforesaid position, we direct clause (i) of para 3 of the order dated 10th April, 2002 be substituted by the following order :-

i) Since the petitioner has been appointed by respondent No.3 through Selection Committee and possess requisite qualification, we direct respondent No.4 to approve petitioner's appointment from the date she joined the work in the year 2001 to 30th April, 2002.”

4. Thus, in terms of aforesaid order dated 26/04/2002, respondent No. 4 was directed to approve the petitioner's appointment from the date she joined the work in the year 2001 to

30/04/2002. Learned Counsel for the petitioner has pointed out that the petitioner has put in about 25 years of service and has retired on superannuation on 30/09/2016 and presently she is suffering from terminal disease. Learned Counsel for the petitioner further pointed out that though several attempts were made by the respondent No.2 – Management and inspite of advertisements and interviews, no suitable candidate was available from the reserved class category and hence, the backlog could not be filled up. The Affidavit filed by respondent No.2 – Management also states that despite several advertisements and interviews, no suitable candidate was available from the reserved category. Learned Counsel for the petitioner has pointed out that the proposal for de-reservation for the post held by the petitioner was submitted to the Deputy Director, however, it appears that no decision has been taken thereon.

5. Considering the peculiar facts and circumstances of the case and particularly since the petitioner has put in about 25 years of service and has now retired from the service on superannuation, we direct the respondents No. 1 & 4 to de-reserve the post of Lecturer in Political Science occupied by the petitioner with effect from 2002-03. Upon the petitioner's retirement on 30/09/2016 the post of Lecturer

in Political Science in the Institution shall be reverted as reserved post. The appointment of the petitioner shall stand approved and the petitioner shall accordingly be paid all monetary benefits (including benefit of continuity in service and other consequential benefits) by the respondents No. 1 & 4. The entire exercise shall be carried out and payments made by respondents No. 1 & 4 within 10 weeks from today. The impugned order qua the petitioner shall stand set aside. The Petition is allowed in the aforesaid terms. Rule is made absolute accordingly. No order as to costs.

6. All concerned to act on the authenticated copy of this order.

(M.S.KARNIK, J.)

(A.A.SAYED, J.)