

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 4909 OF 2016

(Dr. Asha Shivsagar Agnihotri vs. The Joint Director, Higher Education, Nagpur Division & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
MRS. SWAPNA JOSHI, JJ.
JANUARY 19, 2017.**

Shri N.R. Saboo, learned counsel for the petitioner, Shri Chutke, learned AGP for respondent No. 1 and Shri S.K. Bhoyar, learned counsel for respondent Nos. 2 & 3.

2. The petitioner seeks placement in pay band of Rs.15600-39100 with Grade Pay of Rs.8000/-. The benefit is asked from the date 26.11.2002.

3. During hearing, we find that the petitioner worked with the very same management in its unaided section from 26.11.1992 up to 20.11.2008. Thereafter she has been selected and appointed on aided side as Assistant Lecturer.

4. Shri Saboo, learned counsel submits that the entire service rendered from 26.11.1992 needs to be counted and thereafter fitment needs to be worked out.

5. Respondent Nos. 2 & 3 have filed their reply. Shri Bhoyar, learned counsel submits that the petitioner had tendered resignation and thereafter joined new employment because of her selection. Thus, there is break in service. According to him, in this situation as the benefits flowing from earlier unaided service are all withdrawn by the

petitioner, that service cannot be clubbed with aided service. He adds that these difficulties are pointed out by respondent Nos. 3 & 4 by submitting a letter dated 08.04.2015 to the Joint Director of Higher Education and no decision thereupon has been taken.

6. The learned AGP states that if any proposal is sent by the management to respondent No. 1, respondent No. 1 will take decision upon it as per law.

7. Shri Saboo, learned counsel submits that the representation dated 08.04.2015 is incomplete.

8. We do not wish to go into any disputed issues at this stage. The only question is whether service rendered by the petitioner from 26.11.1992 to 20.11.2008 with the very same management on its unaided section can be clubbed with the later service.

9. We direct respondent No. 1 to consider this issue and the representation sent by the management to him on 08.04.2015 in this background within a period of three months.

10. We direct the parties to appear before respondent No. 1 on 30.01.2017 and period of three months shall commence from said date.

11. With these directions and keeping all rival contentions open, we dispose of the present writ petition. However, there shall be no order as to costs.

JUDGE

JUDGE

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