

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

22 WRIT PETITION NO.3500 OF 2017

**BHARAT TUKARAM BUYE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner : Mr. Deshmukh Yogesh P.
AGP for Respondents/State : Mr. S.Y. Mahajan
Advocate for Respondents : Mr. R.S. Banik h/f. V.P. Latange
Advocate for Respondents : Mr. V.D. Gunale for R/4 & 5.

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**CORAM : PRASANNA B. VARALE &
MANGESH S. PATIL, JJ.**

DATE : 17.12.2018

PC. :-

Heard Mr. Deshmukh, the learned counsel for the petitioner, Mr. Gunale for the respondent-management and the learned A.G.P. for the State-authorities.

2. On a submission that the petitioner who has already retired from his services was entitled for the benefits of second stage of assured progressive scheme w.e.f. July 2014 as this benefit was denied to the petitioner, the petitioner was before this Court. A notice was issued on 16.03.2017. By an order dated 19.03.2018, the Division Bench of this Court recorded the submissions and counter submissions of the respective parties to the petition. The counsel appearing for the petitioner sought some time to make a

statement in respect of confirm date of promotion / appointment of the petitioner as a Lab Assistant.

3. Today, while hearing the petition the counsel though initially again raised the submissions and counter submissions even on the aspect of the date which should be record for the entitlement of the petitioner for the benefit of second assured promotion scheme and about the very first benefit granted to the petitioner namely, Lab Assistant. Then, there was also some dispute on an issue namely whether this first benefit granted to the petitioner was as a Lab Assistant or as a Laboratory Attendant. The submissions were also made on the aspect of the entries in the service book of the petitioner and the communication forwarded by the Principal to the Joint Director, Higher Education, Nanded Region, Nanded. A reliance was also placed by the learned counsel on the assessment of the performance of the petitioner reflected through confidential reports of the petitioner. As these are certain disputed questions of facts and it was our opinion that this Court would be very slow in entertaining the petition. On the backdrop of the disputed questions of fact, the learned counsel Mr. Deshmukh appearing for the petitioner fairly submitted before us that the petitioner would file a comprehensive representation before the Joint Director, Higher Education, Nanded Region, Nanded i.e. the respondent no.2 herein in the petition giving all the details in support of the claim of the petitioner. It is submitted by Mr.

Deshmukh that the petitioner would file such a representation within one week from today and the Joint Director in turn be directed to decide the representation on its merits as expeditiously as possible.

4. Mr. Gunale, counsel appearing for the respondent-management submitted that if such a recourse is adopted by the petitioner and if the representation is submitted to the Joint Director, the respondent nos.4 and 5 also be granted an opportunity of hearing to make their stand clear before the authority on the representation submitted by the petitioner.

5. The learned A.G.P submitted that if the petitioner files the representation within one week, the respondent no.2-Joint Director would decide it expeditiously. In view of the statements made by the learned counsel appearing for the respective parties, we are disposing of the writ petition with liberty to the petitioner to submit a comprehensive representation to respondent no.2-Joint Director within one week. The Joint Director on receipt of such representation to grant an opportunity of hearing to the parties i.e. to the petitioner and the respondent nos. 4 and 5 if the parties pray for such a personal hearing, the Joint Director thus by conducting this exercise to decide the representation as expeditiously as possible and not later than eight weeks from the date of order of this Court, needless to state on the merits of the representation.

6. With these directions, the writ petition is disposed of.

[MANGESH S. PATIL, J.]

[PRASANNA B. VARALE, J.]