

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

WRIT PETITION NO. 2929 OF 2017

Kerba s/o Mariba Waghmare

...Petitioner

Versus

The State of Maharashtra and Ors. ...Respondents

Mr. N.S. Kadam, Advocate for Petitioner

Mrs. M.A.Deshpande, A.G.P. for Respondent Nos. 1 to 3

Mr.A.S.More, Advocate for Respondent No.4

Mr.V.G.Kodle, Advocate h/f Mr.V.D.Gunale, Advocate
for Respondent No.5

**CORAM : S.V.GANGAPURWALA AND
A.M.DHAVALA, JJ.**

DATE: APRIL 17, 2018

PER COURT :

1. Mr. N.S.Kadam, learned counsel submits that the petitioner is appointed on 12th July, 1989 with respondent No.5. At the relevant time, respondent No. 5 was affiliated with the erstwhile Marathwada University. Upon formation of respondent No.4-University, respondent No.5 is affiliated to respondent No.4. The entry to that effect is taken in the service book of the petitioner. The reconciliation given by the petitioner for giving the benefits of Career Advancement Scheme is not considered.

(2)

2. The learned A.G.P. submits that the petitioner does not possess the necessary qualification. The petitioner does not possess NET/SET qualification nor has completed M.Phil. He has acquired Masters Degree in M.Lib. on 01.09.2000. The candidate, who has passed M.Lib. examination by 31.12.1993 are only exempted from the eligibility test for lecturers conducted by University Grants Commission.

3. We have considered the submissions. The Special Bench of this Court had interpreted the government resolution dated 27th June, 2013 and also considered the earlier government resolution and has held as under :

ORDER

1) It is declared that the teachers/professors/lecturers/candidates who have not acquired NET/SET/TEST qualification and who are appointed during 24.10.1992 to 3.4.2000 (except 19.9.1991 to 23.10.1992) (see Government Resolution dated 27.06.2013) are not entitled for CAS (Career Advancement Scheme) and other related benefits except the benefits including the pay scale and increments and other related benefits, as announced by the State, but on conditions so reproduced.

(3)

2) Upon acquiring NET/SET qualification, the teachers shall be entitled for the CAS and other related benefits in accordance with law from the date of acquisition of qualification of NET/SET as announced.

3) The challenge to the validity of the impugned State Government Resolution dated 27 June 2013 is rejected. The action of the State of Maharashtra is upheld. The State/Universities/Colleges to take steps accordingly.

4) In view of above, all the Writ Petitions, Contempt Petitions and Civil Applications are dismissed accordingly.

5) Rule in all the above matters is discharged and/or disposed of accordingly.

6) Ad/interim reliefs, if any, stand vacated, subject to para 88 hereof.

7) There shall be no order as to costs.

8) The Registry to forward copy of this judgment to Hon'ble Supreme Court, at the earliest, for record of Civil Appeal No.10759 of 2013 and other connected Appeals and Special Leave Petitions.

4. The petitioner claims that he is appointed on 18th July,1989. In view of that, it is not necessary for the

petitioner to possess NET/SET qualification.

5. Respondent No.3-Joint Director of Higher Education shall consider the representations of the petitioner dated 21st August, 2015 (Exh."E"), Page No. 41. It shall confirm about the date of appointment of the petitioner as claimed by him as 12th July, 1989 and considering the judgment of the Special Bench of this Court referred to supra, shall decide the representation of the petitioner expeditiously, preferably within six months.

6. The writ petition is accordingly disposed of. No costs.

(A.M. DHAVALÉ, J.)

(S.V. GANGAPURWALA, J.)

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