

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

WRIT PETITION NO. 6223 OF 2015

**VITTHAL DASHRATH JADHAV
VERSUS
MAHATMA PHULE KRISHI VIDYAPEETH, AHMEDNAGAR**

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Advocate for the Petitioner : Shri Barde Parag Vijay.
Advocate for the Respondent : Shri Shahane Pradeep L..

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 02nd July, 2018

Per Court:

1 While issuing notice on 16.11.2015, this Court had recorded the submissions of the Petitioner in its order dated 16.11.2015, which reads as under :-

- "1. *The petitioner is aggrieved by the judgment and order dated 19/12/2014 delivered by the Industrial Court, by which Complaint (ULP) No.100/2012 has been dismissed.*
2. *The petitioner submits that he was working as a temporary employee with the respondent / Agricultural University from 1973 till 01/04/2001. He was retrenched in the Mass Retrenchment of 2001. He was reappointed as a permanent employee on 12/03/2003 and he retired on 01/06/2012.*
3. *The entitlement for pension requires 10 years of service which is termed as qualifying service. Petitioner has worked for 9 years and 2 months. Reliance is placed on Rule 54 of the Maharashtra Civil Services (Pension) Rules of 1982. Mr.Barde, therefore, submits that such deficiency not exceeding*

one year in the period of service qualified for pension can be condoned under Rule 54.

4. *Rule 54 of the M.C.S. (Pension) Rules reads as under :-*

“54. Condonation of deficiency and addition in service,

Government may, for special reasons to be recorded in writing -

(1) Condone a deficiency,. which may not ordinarily exceed one year, in the period of service qualifying for pension performed by a Government Servant in order to qualify him to receive a Retiring Pension or to receive a pension a distinct from a gratuity ; or

(2) Make an addition, which may not ordinarily exceed one year, to the period of service qualifying for pension, performed by a retiring Government servant which under the provisions of these rules may be counted for pension.”

5. *Issue notice before admission to the respondents, returnable on 09/12/2015."*

2 I have considered the strenuous submissions of Shri Barde and Shri Shahane, learned Advocates for the respective sides and have gone through the judgment of the learned Division Bench of this Court in the matter of the State of Maharashtra vs. Ravindranath Kautik Mohite, 2017 (1) All MR 547, cited by the Petitioner.

3 There is no dispute that there was a mass retrenchment of about 4400 daily wagers on 01.04.2001. It was in 2003, that the Agriculture University required few workers. Hence, by following the rule of inviting the retrenched employees for re-employment, the Petitioner

was reappointed on 12.03.2003 and he was confirmed in service.

4 The grievance, therefore, is that the Petitioner has completed 09 years, 02 months and 19 days as a permanent employee. The requirement for pension is 10 years, which is termed as a qualifying service. He is thus, short of 09 months and 11 days.

5 The Petitioner has relied upon Rule 54 reproduced above and prays that such deficiency in completing 10 years of qualifying service, could be condoned by the State Government. The learned Division Bench in the State of Maharashtra case (supra) has held that past service of the employee ought to be counted as qualifying service for pension.

6 Shri Shahane submits that all these 4400 workers were retrenched as they were excess and that strength of daily rated workers was not required. It is only when little need for engaging hands arose that the University, in fairness, preferred to invite senior most retrenched workmen in view of Section 25-G of the Industrial Disputes Act, 1947. If one case is entertained, thousands of cases would come forward for seeking the same reliefs. All these workers were granted their retrenchment compensation when they were retrenched. Gratuity was also paid.

7 Shri Shahane further submits that an identical case forwarded to the State Government for consideration under Rule 54, has been rejected by the State Government by order dated 19.11.2015, in the case

of Bhagwan Vitthal Waman. He had worked for 09 years, 06 months and 29 days and in the instant case, the Petitioner has worked for 09 years, 02 months and 19 days.

8 Considering the above and keeping in view that the State Government has already rejected the case wherein, the deficiency was of 05 months and one day as against the deficiency in the instant case of 09 months and 11 days, I do not find that this petition could be entertained. This Writ Petition is, therefore, dismissed.

kps

(RAVINDRA V. GHUGE, J.)