

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

WRIT PETITION NO. 4725 OF 2016

Ganesh Mahadeo Nalawade

..PETITIONER

VERSUS

State of Maharashtra and Others

..RESPONDENTS

....

Mr. S.S. Jadhavar, Advocate for petitioner.

Mr. K.N. Lokhande, A.G.P. for respondent nos. 1 and 2.

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**CORAM : S.V. GANGAPURWALA AND
R.G. AVACHAT, JJ.**

DATED : 22nd OCTOBER, 2018

ORDER :

Mr. Jadhavar, the learned Counsel for the petitioner submits that after following the due procedure of law, the petitioner was appointed as Laboratory Assistant pursuant to the appointment order dated 09th February, 2009, initially for two years on probation on pay scale of 5200-20200. The learned Counsel submits that the Education Officer (Secondary) approved the appointment of the petitioner as Laboratory Assistant for a period of three years from the date of appointment on honorarium basis referring to the Government Resolution dated 25th November, 2005. The learned Counsel submits that the

petitioner is entitled for pay scale during probation period. Government Resolution dated 25th November, 2005 has been cancelled pursuant to Government Resolution dated 30th December, 2005. The learned Counsel submits that the respondent – authority has granted approval to the appointment of one Mr. J.B. Waduje as a peon on pay scale since the initial date of appointment.

2. The learned A.G.P. submits that the petitioner was appointed in the year 2009. Government Resolution dated 25th November, 2005 was invoked and as per the said Government Resolution, the petitioner's appointment will have to be considered on honorarium for a period of three years.

3. We have considered the submissions of the parties. While passing the order dated 28th November, 2014 in Writ Petition no. 8753 of 2014, we had recorded the affidavit filed by the Deputy Education Officer. In that affidavit, the Deputy Education Officer has specifically averred that Government Resolution dated 25th November, 2005 is cancelled pursuant to Government Resolution dated 30th December, 2005. Government Resolution dated 30th December, 2005 is placed on record. It states that Government Resolution dated 25th November, 2005 is

cancelled. In one similarly situated case, the Education Officer has granted approval to the appointment of one Mr. J.B. Waduje as a peon on pay scale from the initial date of appointment, though he was appointed in the year 2009.

4. Considering the fact that Government Resolution dated 25th November, 2005 was cancelled pursuant to Government Resolution dated 30th December, 2005, the impugned order is quashed and set aside. The Education Officer shall grant approval to the appointment of the petitioner since the initial date of appointment on the pay scale as applicable to the Laboratory Assistant. Writ petition is accordingly allowed.

(R.G. AVACHAT, J.)

(S.V. GANGAPURWALA, J.)

SSD