

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

**REVIEW PETITION NO.85 OF 2016
IN
WRIT PETITION NO.7061 OF 2014**

Harishchandra s/o Wamanrao Awari
Age: 46 years, Occ- Serving
as Assistant Professor
Vasantrao Naik Marathwada
Krishi Vidyapeeth,
Parbhani, Tq. & Dist.- Parbhani - **PETITIONER**

VERSUS

1. The State of Maharashtra
Through its Secretary
Agricultural, Animal Husbandry,
Dairy Development and
Fisheries Department,
Mantralaya, Mumbai-32.
2. The Registrar
Vasantrao Naik Marathwada
Krishi Vidyapeeth, Parbhani
Tq. & Dist. Parbhani. - **RESPONDENTS**

Mr. V. D. Salunke, Advocate for Petitioner.
Mrs. V. S. Chaudhari, AGP for Respondent No.1.
Mr. M. N. Navandar, Advocate for Respondent No.2.

...

CORAM: S.S.SHINDE & P.R. BORA, JJ.

DATE : June 4th, 2018

Date of reserving the order: 5/4/2018
Date of pronouncing the order:4/6/2018

PER COURT:

1. Petitioner has filed the present petition seeking review of the common order passed by this Court on 11th of June, 2015 in Writ Petition No.6591/2014 with connected writ petitions. The present petitioner had filed Writ Petition No.7061/2014 and the same has been dismissed vide the aforesaid common order passed by this Court.

2. Shri V.D.Salunke, learned Counsel appearing for the review petitioner, submitted that the case of the present petitioner was different from the cases of the other petitioners which have been disposed of vide the common order passed by this Court on 11th of June, 2015. Learned Counsel submitted that Writ Petition No.7061/2014 was filed by the petitioner challenging order dated 30th of June, 2014 passed by respondent no.2 whereby the petitioner has been reverted from the post of Associate Professor to the post of Assistant Professor and not for challenging the promotion given to Shri R.G.Bhagyawant. According to the learned Counsel, the error so occurred is apparent on the face of record and, as such, the impugned order, so far as it relates to dismissal of Writ Petition No.7061/2014, needs to be set aside,

and the said petition requires to be heard on its own merits.

3. Shri M.N.Nawandar, learned Counsel appearing for respondent no.2 i.e. the contesting respondent, opposed the submissions made on behalf of the review petitioner. Learned Counsel submitted that this Court has rightly dismissed Writ Petition No.7061/2014 filed by the present petitioner by assigning due reasons therefor and, as such, no interference is required in the impugned judgment and order. Learned Counsel, therefore, prayed for dismissal of the review petition.

4. We have carefully considered the submissions made by the learned Counsel appearing for the respective parties. We have also perused the impugned judgment and order and the other material placed on record by the parties. In Writ Petition No.7061/2014, following were the prayers of the petitioner:

"A. That, this Writ Petition may kindly be allowed.

B. It may kindly be held by appropriate writ, order and direction that the impugned order issued by the respondent no.2 dated 30.6.2014 reverting the petitioner from the post of Associate professor for the post of Assistant Professor is illegal and bad in law and same may kindly be quashed and set aside.

C. It may kindly be held by appropriate writ, order and direction that the petitioner is entitled for the post of Associate Professor being senior person as per the seniority list maintained by respondent no.2 and made permanent for the post of Associate Professor with given deemed date w.e.f. 19.7.2007 with consequential

benefits.

D. it may kindly be held by appropriate writ, order and direction that the impugned order dated 30.6.2014 issued by respondent no.2 as per the amended statute 73 is bad in law and it cannot be made retrospectively in favour of the petitioner and same may kindly be quashed and set aside.

... .."

As was submitted by Shri Salunke, learned Counsel appearing for the petitioner, the petitioner had earlier filed Writ Petition No.4909/2008. The said petition was filed by the petitioner seeking writ against the University to prepare a combined seniority list of Faculty of Agricultural Engineering and Faculty of Agriculture and on the basis of that seniority list the petitioner had claimed the promotion. In the said writ petition the University filed an affidavit in reply contending therein that the University had finalized the seniority list issuing notification dated 31st of August, 2009 and according to the seniority list so finalized, the present petitioner was held senior to Shri R.G.Bhagyawant. It was also contended by the University in the said affidavit in reply that because of pendency of the said writ petition, the University could not take any decision in regard to grant promotion to the petitioner. In view of the stand taken by the University in the affidavit in reply filed in the said writ petition, this Court vide order passed on 27th of January, 2010, disposed of the said Writ Petition

No.4909/2008. We deem it appropriate to reproduce the entire said order which reads thus:

"1. By this petition, the petitioner is seeking writ against the University to prepare a combined seniority list of faculty of Agricultural engineering and faculty of Agriculture and on the basis of that seniority list the petitioner is claiming promotion. By filing an affidavit in reply the University contended that seniority list has been finalized by issuing notification dated 31st August, 2009. According to the University, the petitioner has been held to be senior to R. G. Bhagyawant. It is also stated in the affidavit that the present petitioner has been held to be senior to R. G. Bhagyawant in the cadre of Assistant Professor. However, it is further stated that in view of pendency of this petition, the University could not take any decision in regard to grant of promotion to the present petitioner.

2. *In view of stand taken by the University in its affidavit-in-reply and having regard to the fact that one post of Associate Professor is lying vacant, learned counsel for the petitioner seeks permission to withdraw this petition. However, it is submitted that University should take the decision in regard to filling of promotional post of Associate Professor within reasonable time. The learned counsel for the respondent No.2/University in the same spirit agreed the same. Learned counsel for the University assures this Court that promotional post which is lying vacant would be filled in within reasonable time. In that view of the matter, petition stands disposed of as withdrawn."*

5. The material on record reveals that in pursuance of the aforesaid order, the petitioner was given ad hoc promotion for eleven months on few occasions to the post of Associate Professor. In Writ Petition No.7061/2014, grievance raised by the petitioner is against the order dated 30th of June, 2014 passed by respondent no.2 whereby the petitioner has been

reverted to the post of Assistant Professor from the post of Associate Professor. It is the contention of the petitioner that such an action of respondent no.2 is per se illegal and against the provisions in the Statute and the Rules thereunder.

6. After having considered the material as aforesaid, we are convinced that the grievance as has been raised by the petitioner in Writ Petition No.7061/2014 has inadvertently not been considered by this Court and presuming that the grievance of the petitioner is as same as of the petitioners in other connected writ petitions, vide the common impugned order, this Court has dismissed Writ Petition No.7061/2014 also. In the circumstances, the impugned order, so far as it relates to dismissal of Writ Petition No.7061/2014 requires to be set aside and quashed and is accordingly quashed and set aside. Writ Petition No.7061/2014, stands restored to its original file. The same shall be placed for hearing before a Bench presently holding the said assignment. Review Application (No.85/2016) thus stands allowed in the aforesaid terms.

(P.R.BORA)
JUDGE

(S.S.SHINDE)
JUDGE

.....