

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**REVIEW PETITION NO. 30 OF 2018  
IN  
WRIT PETITION NO. 2144 OF 2018**

|                                 |               |
|---------------------------------|---------------|
| Dr. Ratna w/o. Dinkar Raokhande | ...Petitioner |
| Versus                          |               |
| The State of Maharashtra        | ...Respondent |

Mr. Nitin Dalvi for Petitioner in Review Petition.  
Mr. O. M. Kulkarni – AAGP for State – Respondent.

**CORAM: SMT. V. K. TAHILRAMANI, Acting C. J. &  
M. S. SONAK, J.**

**DATE : 10 APRIL 2018**

**P.C.**

1] Heard the learned counsel for the parties.

2] Mr. Nitin Dalvi, the learned counsel for the review petitioner contends that in the present case, Dr. Sonawane was not required to be impleaded as a party, since, at the time when the Original Application was instituted by the review petitioner, Dr. Sonawane had already retired. He submits therefore that the non impleadment of Dr. Sonawane ought not to have been held as a ground for non

suiting the review petitioner.

3] Mr. Dalvi, further submits that the observations in paragraphs 15 and 17, may have a tendency to deny the review petitioner the benefit of her past service from 1991 to 1996, including, in particular, the benefit of such service for purposes of computing pensionary benefits as well as benefit under the Assured Career Progression Scheme (ACPS). He submits that since the issue involved in the writ petition no. 2144 of 2018 was restricted to seniority, the observations, also, ought to be restricted to the issue of seniority alone and not to any other aspects.

4] Mr. Kulkarni, the learned AAGP for the State submits that no good grounds have been made out for exercise of review jurisdiction and therefore, this review petition may be dismissed.

5] In so far, as the first ground urged by Mr. Dalvi relating to non joinder of necessary party is concerned, we find that this was only one of the grounds to non suit the review petitioner. In any case, we also detect no error

apparent on face of record, in so far as such ground is concerned. On this basis, therefore, there is no case made out for exercise of review jurisdiction.

6] In so far as Mr. Dalvi's second contention is concerned, it is necessary to note the observations, which according to Mr. Dalvi might possibly be misinterpreted by the Authorities :

*"15. .... Since, this was an entirely fresh and direct recruitment, it is obvious that her entry in the cadre of Civil Surgeons had to be taken as 9<sup>th</sup> October 1996 and there was no question of the respondent claiming benefit of her past service from 1991 for purposes of seniority.*

*17. The fortuitous circumstance that inter cadre transfers may be permissible is not a ground to hold that the service of the respondent prior to her fresh and direct recruitment in the cadre of Civil Surgeon, as a Specialist, is to be counted....."*

7] Now, it is correct that this Court, in writ petition no. 2144 of 2018 was concerned only with the issue of seniority and placement. Accordingly, the aforesaid observations, were neither intended to be nor, ought to be construed as wiping out the benefit of review petitioner's service from 1991 for the purposes of pension or ACPS, if, in terms of law and the rules as may be applicable, such

services are indeed required to be taken into consideration. We were not required to and therefore we have not gone into the issue of how this service between 1991 and 1996 is to be treated for purposes of pension or ACPS.

8] We therefore clarify that we were only concerned with the issue of seniority and placement and our aforesaid observations were therefore, in the context of deciding the issue of seniority and placement.

9] Accordingly, we dispose of this review petition by clarification in the aforesaid terms.

10] The review petition is disposed of accordingly. There shall be no order as to costs,

**(M.S. SONAK, J.)**

**(ACTING CHIEF JUSTICE)**