

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 579 OF 2015**

Union of India and ors.	Petitioners
Versus	
Hemant R. Pawar	...Respondent

WITH
WRIT PETITION NO. 580 OF 2015

Union of India and ors.	Petitioners
Versus	
Mandke M. Vithal	...Respondent

WITH
WRIT PETITION NO. 581 OF 2015

Union of India and ors.	Petitioners
Versus	
Rajnish A. Malekar	...Respondent

WITH
WRIT PETITION NO. 582 OF 2015

Union of India and ors.	Petitioners
Versus	
Govind N. Sarge	...Respondent

WITH
WRIT PETITION NO. 583 OF 2015

Union of India and ors.	Petitioners
Versus	
Dr. Barun Kumar Mehta	...Respondent

WITH
WRIT PETITION NO. 584 OF 2015

Union of India and ors.	Petitioners
Versus	
Dr. Bijay Kumar Barnwal	...Respondent

WITH
WRIT PETITION NO. 585 OF 2015

Union of India and ors.	Petitioners
Versus	
Rajeev Kumar Bansal	...Respondent

Mr. Vinod Joshi a/w. Mrs. N.V. Masurkar for the Petitioners.
Mr. P.J. Prasad Rao for the Respondent in all the petitions.

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

DATE : 19th MARCH 2018

ORAL JUDGEMNT:

- 1] Heard learned counsel for the parties.
- 2] Learned counsel for the parties agree that this batch of petitions can be disposed of with a common order, since they challenge the common judgment and order made by the Central Administrative Tribunal (CAT), Mumbai on 19th August 2014.
- 3] The only submission made by Mr. Joshi, learned counsel for the petitioners, in support of these petitions is that the original applicants before the CAT, i.e., the respondents herein were engaged in private organizations before their recruitments in the National Defence Academy (NDA) and therefore, the direction issued by the CAT to treat the services of such respondents in the private organizations for purposes of financial benefits under the

Career Advancement Scheme are in excess of jurisdiction. He points out that on the basis of the impugned judgment and order, such respondents might even claim benefits of seniority and actual promotion at the NDA. On this ground alone, Mr. Joshi submits that the impugned judgment and order made by the CAT is required to be set aside.

4] Mr. P.J. Prasad Rao, learned counsel for the respondents, makes it very clear that the respondents were not serving in some private organizations as claimed by the learned counsel for the petitioners, but were serving as Lecturers etc. in institutions, very much recognized by the University Grants Commission (UGC). He points out that it was not even the case of the petitioners before the CAT that the respondents were employees of some private organizations and therefore, the petitioners, cannot raise such an issue before this court for the first time, in the absence of any factual foundation whatsoever upon this issue. He points out that there was unimpeachable material produced on record as regards the respondents' employment details before they joined the NDA and there was no dispute whatsoever raised by the petitioners as

regards such material. Mr. P.J. Prasad Rao points out that it is in terms of the UGC guidelines that the benefit of such service is directed to be taken into consideration for the purpose of award of benefits under the Career Advancement Scheme. He makes it clear that none of the respondents are even claiming seniority or promotion on the basis of such past service. He submits that the only ground raised by Mr. Joshi in support of these petitions is therefore, misconceived and these petitions therefore be dismissed with exemplary costs.

5] Upon due consideration of the sole contention raised by Mr. Joshi, we find that it was not even the case of the petitioners that the respondents were employees of some private organizations and therefore, their services in such organizations, can never be counted for any purposes, including for award of financial benefits under Career Advancement Scheme. In the impugned judgment and order itself, the CAT has made detailed reference to the various institutions in which the respondents were appointed prior to their appointments at the NDA. Apart from the fact that there was no factual issue raised by the

petitioners, it does appear that such institutions were not merely private institutions , as now urged by Mr. Joshi, but they were institutions affiliated to the universities duly recognized by the UGC for purposes of prescription of qualifications and determination of pay scales. Accordingly, there is no merit in the contention of Mr. Joshi that the respondents were engaged purely in private organizations and therefore, even in terms of UGC guidelines, their services could not have been taken into consideration for determining financial benefits under the Career Advancement Scheme.

6] Again, in terms of the material placed on record by the petitioners before the CAT, there are UGC guidelines or other executive instructions in the matter and taking into consideration such services for the limited purpose of financial benefits under the Career Advancement Scheme and certain other purpose. These guidelines/instructions, naturally, make no reference to counting of such services for purposes of seniority or promotion. Mr. Mr. P.J. Prasad Rao, learned counsel for the respondents, also makes it clear that the respondents, on the basis of such past

service have not made any claim for any seniority or promotion. There is nothing in the impugned judgment and order made by the CAT, which also suggests that the respondents, can make any claim for seniority or promotion. Therefore, the second apprehension expressed by Mr. Joshi also does not arise, in the facts and circumstances of the present case.

7] Since, no other ground was raised by Mr. Joshi in support of these petitions and since the only ground raised by Mr. Joshi in support of these petitions lacks force, we dismiss these petitions. There shall however, be no order as to costs.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)