

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2205 OF 2017**

Ujwala Jadhav

..Petitioner

Versus

University of Mumbai

..Respondent

Mr. Chetan Mali, Advocate for the Petitioner.

Mr. Asadullah Shaikh i/by Mr. Rui A. Rodrigues, Advocate for the Respondent.

CORAM : B. R. GAVAI &

SMT. BHARATI H. DANGRE, JJ.

DATE : 1st MARCH, 2018

P.C.

1] Rule. Rule made returnable forthwith. Heard by consent.

2] The Petitioner has approached this Court praying for quashing and setting aside the order dated 28th December 2016 and also for a direction to the Respondents to continue her on the post of Associate Professor with effect from her date of appointment of 2003.

3] The Petitioner was initially working as a lecturer in Gokhale College at Kolhapur since 1991. The Respondent University had invited applications for appointment on the post of Reader (Associate Professor) in the month of September 2002. The post was reserved for candidate belonging to ST. Since the candidate for ST was not available, the Petitioner who belongs to SC came to be appointed on the said post by order dated 29th March 2003. The Petitioner was thereafter continued *BGP*.

upto 28th December 2016. However, vide order dated 28th December 2016 the Petitioner's appointment came to be continued as an Assistant Professor and that too for a period of six months. Petitioner has therefore approached this Court, seeking a direction to the Respondents that, her services as an Associate Professor be regularized from the date of her first appointment. Petitioner has also made a grievance that, she has not been paid her salary from November, 2016 for no reason.

4] The Petition is vehemently opposed on the ground that, the Petitioner has an alternate remedy since what is in effect challenged by the Petitioner, is reversion. In so far as this grievance is concerned, it is submitted by the University that though the salary was sought to be paid by cheque, the Petitioner has failed to accept the same.

5] We find that the Petition deserves to be allowed in view of the policy of the State Government itself. It is the policy of the State Government that if after issuance of repeated advertisements for a period of seven years a candidate for a particular category is not available, the post could be interchanged by a candidate belonging to another reserved category.

6] In the affidavit filed on behalf of Respondent University

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itself, it is stated that though advertisements were issued on several occasions, a candidate belonging to ST was not available. We find that in view of policy of State Government, the Petitioner having served for almost 14 years, is entitled to be regularized on the post on which she was initially appointed.

7] No reason has been given in the affidavit as to why the Petitioner's reversion was found necessary, after she has served for almost 14 years on the post of Associate Professor.

8] We also see no reason as to why the Respondents have changed the method of making payment through Electronics Clearing System (ECS) and sought to make payment by cheques.

9] In the result, the Petition is allowed.

10] The impugned order dated 28th December 2016 is quashed and set aside.

11] It is held and declared that, the Petitioner is entitled to be regularized on the post of Associate Professor with effect from 21st March 2003. Needless to state that all consequential benefits including continuity etc. would be available to the Petitioner.

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12] In so far as the payment of salary, we direct the arrears to be deposited through ECS. The arrears would be cleared within a period of four weeks from today.

13] Rule is made absolute in the aforesaid terms, with no orders as to costs.

14] Parties to act on an authenticated copy of this order.

[SMT. BHARATI H. DANGRE, J.]

[B. R. GAVAI, J.]