

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1273 OF 2018

Dr. Jayshree D/o. Ramrao Rodge,
Age: 55 Years, Occu.: Service,
R/o.: Vaibhav Nagar, Karegaon Road,
Tq. & Dist.: Parbhani .. **Petitioner**

Versus

1. The State of Maharashtra,
Department of Agriculture,
Animal Husbandry, Dairy Science and
Fisheries Government of Maharashtra
2. The Vasant Rao Naik Marathwada
Krishi Vidhyapeeth, Parbhani,
Through its Registrar .. **Respondents**

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Mr. Vishant P. Kadam, Advocate for the Petitioner.
Mr. S. K. Tambe, A.G.P. for Respondent No. 1.
Mr. M. N. Navandar, Advocate for Respondent No. 2.

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CORAM: S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.

DATE: 11th FEBRUARY, 2019

ORAL JUDGMENT (Per S. V. Gangapurwala, J.) :

1. Rule. Rule made returnable forthwith. With the consent of learned counsel for respective parties matter is taken up for final hearing.

2. Mr. Kadam, learned counsel for the petitioner submits that petitioner pursuant to the advertisement issued by the respondent was appointed as an 'Assistant Professor' on 13.12.2009. The petitioner seeks benefit of Government Resolution dated 15.07.2010, more particularly, Clause 7 (i) and claims five non compounded advance increments on the ground that the petitioner possesses Ph.D. qualification.

3. Mr. Navandar, learned counsel for the respondent submits that the petitioner joined service with the respondent / University on 16.12.1987 as 'Laboratory Assistant'. On 02.07.2002, the petitioner made a request to refer her for Ph.D. The request of the petitioner was refused by the respondent. Thereafter pursuant to the relevant Government Resolution the petitioner was granted extraordinary leave. The petitioner during the said period completed Ph.D. and thereafter joined again on the post of 'Laboratory Assistant' in the year - 2009. According to the

learned counsel, as the petitioner completed Ph.D. during her service tenure Clause 7 (iv) and (vi) of the Government Resolution dated 15.07.2010 would apply. The department also in its minutes of meeting has considered the aspect and granted benefit of three non-compounded advance increments to the petitioner. The petitioner as has completed the Ph.D. in service is entitled for three non-compounded increments and not five as claimed by the petitioner.

4. We have considered the submissions canvassed by the learned counsel for respective parties.

5. The Government Resolution dated 15.07.2010 takes retrospective effect from 01.01.2006. Clause 7 (i) and Clause 7 (iv) reads thus -

“(7) Incentives for Ph.D. / M. Phil. and other higher qualifications :

(i) Five non-compounded advance increments shall be admissible at the entry level of recruitment as Assistant Professor to persons possessing the degree of Ph.D. awarded in the relevant discipline by the University following the process of admission, registration, course work and external

evaluation as prescribed by the UGC/ICAR in its Regulation.

(ii) ...

(iii) ...

(iv) Teachers who complete their Ph.D. Degree while in service shall be entitled to 3 non-compounded increments if such Ph.D. is in the relevant discipline and has been awarded by a University complying with the process prescribed by the UGC / ICAR for enrollment, course work and evaluation, etc in its Regulation."

6. We had asked the Advocate for the respondent as to whether the past services of the petitioner were considered while appointing the petitioner on the post of 'Assistant Professor', the answer was in the negative. The appointment of the petitioner on the post of 'Assistant Professor' was a fresh appointment made after the petitioner had undergone the selection process conducted pursuant to the advertisement issued by the respondent inviting application for the post of 'Assistant Professor'. The petitioner after participating in the selection process is selected and appointed as an 'Assistant Professor' under appointment order dated 31.12.2009. Clause 7 (i) of the Government Resolution referred to supra provides that five

non-compounded advance increments shall be admissible at the entry level of recruitment as Assistant Professor to persons possessing the degree of Ph.D. awarded in the relevant discipline by the University following the process of admission, registration, course work and external evaluation as prescribed by the UGC /ICAR in its Regulation. The Clause 7 (iv) relied by the learned counsel for the respondent would operate if the teacher completes their Ph.D. degree in service in the relevant discipline and has been awarded by a University complying with the process as applied by the UGC / ICAR for enrolment, course work and evaluation etc in its Regulation. The petitioner had completed her Ph.D. when the petitioner was working on the post of 'Lab Assistant' Class – III, and after completion has again joined as 'Lab Assistant'. It was through a fresh competitive selection process the petitioner was selected as 'Assistant Professor'. The past service of the petitioner rendered as 'Lab

Assistant' is not considered while appointing the petitioner as an 'Assistant Professor'. As the petitioner possesses the Ph.D. qualification at the time of entry level as an 'Assistant Professor', the petitioner certainly would be entitled for five non-compounded advance increments as per Clause 7 (i) of Government Resolution dated 15.07.2010.

7. In the light of above, the Clause 7 (iv) and 7 (vi) do not apply. The said benefit shall be given to the petitioner expeditiously and preferably within three (3) months. The benefit of three non-compoundable advance increments shall be adjusted. Rule is made absolute in above terms.

8. Writ petition accordingly stands disposed of. No costs.

[A. M. DHAVAL, J.] [S. V. GANGAPURWALA, J.]

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