

Wp 4000.18N THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

60 WRIT PETITION NO.4000 OF 2018

MOHAN VAIJANATHRAO DHUPPE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Ms. P.S. Talekar
AGP for Respondents: Mr. P.G. Borade
Advocate for Respondent No.3 : Mr. M.N. Navandar
Advocate for Respondent No.2 : Mr. Kausalye S.P.

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CORAM : **S. V. GANGAPURWALA & AVINASH G. GHAROTE, JJ.**

Date: December 16th, 2019

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PER COURT :-

1 The petitioner is challenging the communication dated 20.4.2012 (page No.21) thereby denying the claim of the petitioner to include his name in the agriculture faculty.

2 Miss Talekar, learned advocate for the petitioner submits that the petitioner was appointed as an Assistant Professor of crop science (Genetics & Plant Breeding) at College of Agriculture of Bio-technology, Latur on 9.9.2008 and is working since then. The learned counsel submits that as per Rule 11 of the University Services (Regulations of Seniority) Rules, 1987 irrespective of the post held by the academic staff in different faculties, the post graduation degree of the discipline be considered for deciding the seniority. According to the learned counsel despite post graduate degree of the petitioner in agriculture botany, his name was included in the seniority list

against the subject of crop science. The petitioner filed an objection. The objection was rejected.

3 The learned counsel submits that juniors to the petitioner, viz. Amol Dethe and Datttraya Dalvi who were Assistant Professors were promoted as Associate Professors. One Godawari Shivajirao Pawar had filed Writ petition No.4129/2017 challenging said promotions. Promotion of Dattatraya Dalvi was set aside with demotion to original post of Assistant Professor. Thus, the post of Associate Professor in the department of agricultural botany held by Dattatraya Dalvi has fallen vacant. As far as Amol Dethe is concerned, he is still working as Associate Professor and is shown in the seniority list for the subject of agricultural botany.

4 Mr. M.N. Navandar learned counsel for respondent submits that petitioner had applied for two posts i.e. Associate Professor of Agriculture Botany and Assistant Professor of Crop Science (Genetics & Plant Breeding). The selection committee recommended the name of the petitioner for the post of Assistant Professor of Crop Science. As such, cannot be considered for agricultural botany. Learned counsel submits that the Rule relied upon by the petitioner is of the year 1991. At that time, there was no separate college for agricultural biotechnology and the subject crop science was included for the first time at Latur college of agriculture. There is no subject of

crop science at respondent No.3. The learned counsel submits that seniority regulations are again now reconsidered. It has become necessary to modify the seniority regulations. The university would constitute its management council for modification of seniority regulations.

5 We have considered the submissions.

6 The factual matrix of the petitioner possessing post graduate degree qualification in the subject agricultural botany and that the petitioner having been appointed as an Associate Professor (Crop Science) is not disputed. The university has framed seniority regulations 1987-88. Relevant Regulation 11 reads thus:-

" 11 Irrespective of the posts held by academic staff in different faculties the post graduation degree of the discipline be considered for deciding the seniority except the post graduation degree in animal Husbandry and draying animal science. Dairy science animal management live stock production management (E.C.No.62/91 dated 7.9.1991)."

7 Reading the said Regulation, it is manifest that the irrespective of the post held by the academic staff in different faculties, the post graduate degree in discipline shall be considered for deciding the seniority. The only exception is the PG degree in animal husbandry and draying animal science. The petitioner possesses Ph.D. in the subject agricultural botany. As per the Regulation existing today visa-a-vis regulation 11, the

seniority of the petitioner will have to be considered on the basis of Ph.D. in the discipline of agricultural botany. Apart from the said regulation, no other regulation is pointed out that would govern the seniority.

8 In the light of above, the impugned communication is quashed and set aside. The respondent shall consider the case of the petitioner possessing post graduate degree of agricultural botany for the purpose of seniority. In case the selection committee finds the petitioner to be eligible in all respects for the promotion then the petitioner shall be given deemed date i.e. the date when the junior to the petitioner was promoted.

9 Writ petition is accordingly allowed in above terms.

10 No costs.

(AVINASH G. GHAROTE, J)

(S. V. GANGAPURWALA, J)