

IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.

909. WRIT PETITION NO. 6576 OF 2017

Vijaykumar Desai Solunke, Parbhani ...Petitioner

VERSUS

The State of Maharashtra and others ...Respondents

*Mr. S.V. Kurundkar, Advocate, h/f. Mr. P.D. Suryawanshi,
Advocate for petitioner.*

Mr. S.K. Tambe, Asstt. Govt. Pleader for respondent No. 1.

Mr. S.K. Kadam, Advocate for respondent No. 2

Mr. M.N. Navandar, Advocate for respondent No.3

Mr. V.D. Patnurkar, Advocate for respondent No.4

CORAM : S. V. GANGAPURWALA
AND
A. M. DHAVAL, J.J.

DATE : 25th APRIL, 2019

ORAL ORDER:

1. We have heard Mr. Kurundkar, learned Advocate for the petitioner on two dates. Grievance of the petitioner is that the decision dated 11th May 2017 by respondent No.3 is illegal.

2. According to the learned Advocate, the petitioner was appointed as Agricultural Officer in the establishment of respondent -University under the scheme namely, Up-Land Paddy Research in Marathwada Region, Parbhani. Thereafter the petitioner was

promoted to the post of Junior Ecologist/Taxonomist in the scheme for Weed Control under Marathwada Agricultural University, Parbhani, under order dated 20th June 1987. The petitioner is further promoted as an Associate Professor of Agril. Botany under order dated 9th January 2006. According to the learned Advocate, the respondent No.3 under letter dated 6th September 2016 informed all the eligible employees to furnish their information to promote them in the next higher cadre. Accordingly the petitioner furnished all the necessary information to respondent No.3 under letter dated 28th October 2016. In the seniority list of eligible candidates published by respondent No.2, name of respondent No.4 appeared at Ser.No.4 , however, name of the petitioner did not appear.

3. Mr. Kurundkar, learned Advocate submits that respondent No.4 is junior to the petitioner and not considering the petitioner for the promotion is illegal. Internal Quality Assessment Cell constituted for assessment of scores of employees of respondent-University was directed to submit assessment score of employees for considering their performance for the year 2014-2015 and 2015-2016. The petitioner had earlier submitted assessment score when the appointment was to be made by nomination. The petitioner after receipt of the letter dated 6th Sept.

2016 submitted fresh assessment score for the earlier years such as assistance in the research project, preparation of research reports, etc., which earlier the petitioner could not submit it, the same is not considered by the respondents. Non consideration of the assessment score submitted by the petitioner is illegal and erroneous. Respondents could not have selected respondent No.4 ahead of petitioner as respondent No.4 was junior to him and that too, without considering the assessment score submitted by the petitioner in its proper perspective.

4. Mr. Navandar, learned Advocate for respondent No.3 submits that the procedure for promotion of Professor and higher cadre is provided in the Maharashtra Agricultural Universities Act and as per the provisions the Recruitment Board is formed to carry out promotions in the cadre of Professor and above cadres. The minimum score as stipulated in academic performance indicator based on performance based appraisal system has to be considered. Internal Quality Assessment Cell is constituted to evaluate the academic performance indicator (API). Respondent No.2 initially had published advertisement for the posts of Professor on 6th February 2014. The petitioner had applied for the post of Professor of Agricultural Botany. The petitioner had submitted API score as was required. Same was forwarded to respondent No.2-M.C.A.E.R.,

Pune. The University constituted Internal Quality Assessment Cell and the said cell evaluated applications. The Scrutiny Committee was constituted as per University order dated 10th June 2014 and the Scrutiny Committee evaluated the API alongwith score card. The API score for the years 2011-2012, 2012-2013 and 2013-2014 was assessed by the Scrutiny Committee and API score cards prepared by the Assisting Scrutiny Committee were forwarded to the M.C.A.E.R., Pune. The Committee has approved last five years API score cards assessed by the Scrutiny Committee. The Internal Quality Assessment Committee (IQAC) also has approved last five years API score cards for the period from 2009-2010 to 2013-2014. The learned Counsel submits that subsequently it was decided to fill-in that post by promotion and it was directed that eligible candidates should submit their API scores for two years i.e. 2014-2015 and 2015-2016 and for earlier three years API score cards were already assessed. According to the learned Counsel, as per the evaluation of the score cards, respondent No.4 was better and more meritorious and he was selected for promotion.

5. Mr. Kadam, learned Advocate for respondent No.2 supports arguments of learned Advocate for respondent No.3.

6. Mr. Patnurkar, learned Advocate for respondent No.4

adopted arguments of respondent No.3.

7. It appears that initially it was decided to fill in post of Professor Agricultural Botany by nomination and API scores were called from the year 2009-2010 to 2014-2015. Subsequently, the said process was not carried further and thereafter decision was taken to fill-in said post by promotion. It appears that the API scores were already assessed for previous five years. The University called API scores for last two years i.e. 2014-2015 and 2015-2016 as API scores for previous three years were already assessed, scrutinised and evaluated. Grievance of the petitioner is that the petitioner has given fresh details of the API scores for the previous three years to 2013-2014. According to the learned Counsel, it should be of previous three years to 2014-2015.

8. It appears that subsequent API scores submitted by petitioner for three years prior to 2014-2015 are not considered by the respondents on the ground that the same were already dealt with. It needs to be appreciated that afresh API score submitted by the petitioner was also required to be considered.

9. We asked the petitioner as to what was the API score submitted afresh. As per the certificate produced, the API score of respondent No.4 would still be more than the petitioner. Average

API score of respondent No.4 in category I is 93.4, in category II is 42.8, in category I & II it is 136.2, whereas, that of the petitioner is much less. Even if amended Average API score as demonstrated by the petitioner is considered, same would be as in category I - 76, in category II it would be 29.6 and in category I & II it would be 105.6.

10. In the light of above, even if we consider API score of the petitioner as submitted by him subsequently, API score of respondent No.4 would be more meritorious.

11. As such, no interference is called for. The writ petition stands dismissed. No costs.

(A. M. DHAVALA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Madkar