

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9934 OF 2018

Dr. Nivrutti S/o Hanumantrao Kounsalya ...Petitioner

Versus

The State of Maharashtra and Ors. ...Respondents

Mr. R.S. Deshmukh, Advocate with Mr. Amol Joshi,
Advocates for Petitioner

Mr. P.S. Patil, Additional Government Pleader for
Respondent Nos. 1 and 2

Mr. U.S. Malte, Advocate for Respondent No. 3

Mr. N.B. Khandare, Advocate for Respondent No. 4

Mr. S.B. Deshpande, Assistant Solicitor General for
Respondent No. 5

**CORAM : S. V. GANGAPURWALA AND
A. M. DHAVAL, JJ.**

DATE : 11th APRIL, 2019

ORAL ORDER:

1. Heard Mr. Deshmukh, along with Mr. Joshi, the learned Counsel for the petitioner. The learned Counsel submits that the petitioner was appointed as Principal of respondent No. 5 - College on 30th August, 2013. The appointment of the petitioner was for a period of 5 years or completion of 62 years of age, whichever is earlier. The petitioner completed 62 years of age in March, 2016. However, the age of retirement of the Principal of a College is extended to 65 years. The petitioner is continued. The petitioner is

made to retire on 30th August, 2018 i.e. the date, the petitioner completed 5 years of service. The petitioner completes 65 years of age on 31st March, 2019. The petitioner is aggrieved by the fact that the petitioner is not allowed to continue to officiate as the Principal till the petitioner completes the 65 years of age.

2. The gravamen of the petitioner's case is that the age of superannuation is 65 years. As the age of superannuation is 65 years, the petitioner is entitled to officiate and to continue as Principal till the petitioner attains 65 years of age. The petitioner as normal rule, ought to have been allowed to officiate up to 31st March, 2019 i.e. the date, the petitioner completes the 65 years of age. The action of the respondent in issuing orders retiring the petitioner from 30th August, 2018 is patently illegal and does not stand to any reason. The petitioner has performed the duty with utmost sincerity and diligence. No complaint is made against the petitioner at any point of time. The retirement of the petitioner before completion of 65 years of age would be punitive in nature. The service of the petitioner could not have been reduced.

3. Mr. Deshpande, the learned Assistant Solicitor General, the learned Additional Government Pleader and the learned Counsel for the respondent No. 4 submit that the University Grants Commission (UGC) Regulations bind the Universities and the

parties. The UGC Regulations 2010, more particularly, Clause 5.1.6 (d) mandates that the term for appointment of the Principal of the College would be 5 years with eligibility for reappointment for one more term only after a similar Selection Committee process. The petitioner's appointment under letter dated 30th August, 2013 was for a period of 5 years or the petitioner completes 62 years of age, whichever is earlier. However, the petitioner was continued up to 30th August, 2018. The same is in consonance with the UGC Regulations.

4. It is not a matter of debate that the UGC Regulations bind the parties. The UGC Regulations will have to be adhered to Clause 5.1.6 (d) of the UGC Regulations, 2010 specifically provides that the term of appointment of the College Principal shall be 5 years with eligibility for reappointment for one more term only after a similar selection process.

5. In the present case, after lapse of term of 5 years of the petitioner, no fresh selection process was conducted. Considering the resolutions on record, we may hasten to observe that, in fact, the petitioner is a beneficiary. The petitioner under the letter dated 30th August, 2013 is appointed as Principal for the period of 5 years or up to the age of 62 years, whichever is earlier. The petitioner completed 62 years of age in March, 2016. However, the petitioner

was continued probably pursuant to the Government Resolution dated 18th August, 2016 which is subsequent in time after the petitioner had crossed 62 years of age. Be that as it may, the petitioner had actually worked up to 30th August, 2018 i.e. the date, the petitioner completed 5 years, certainly the petitioner will be entitled for the benefit of the period, the petitioner has officiated as a Principal.

6. In view of the UGC Regulations as referred to supra, the petitioner cannot have vested right to continue after 30th August, 2018 without undergoing fresh selection process. The petitioner being made to retire on 30th August, 2018 is not stigmatic, but on account of culmination of the period for which the petitioner was appointed.

7. In the light of the above, the impugned action is not improper. The Writ Petition is accordingly disposed of. No costs.

[A. M. DHAVAL]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

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