

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

WRIT PETITION NO. 11642 OF 2016

Shankar Yadavrao Holkar Petitioner
Versus
The State of Maharashtra & Ors. Respondents

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Shri. Pradeep Deshmukh, Advocate for the petitioner
Shri. P. S. Patil, AGP for respondent/State
Shri. Borde h/f Shri. U. S. Malte, Advocate for respondent No. 3
Shri. R. R. Mantri, Advocate for respondents No. 4 to 6

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

DATE : 1ST APRIL, 2019

ORAL ORDER:

1. Petitioner seeks directions against the respondents to regularize the services of the petitioner as per the Government letter dt. 31.05.2005 so also seeks directions against the University to grant approval with effect from the initial appointment of the petitioner's service.

2. Shri. Pradeep Deshmukh, learned counsel for the petitioner submits that, on 10.07.2003 the petitioner was appointed as Lecturer on clock-hour basis to teach Geography subject for the academic year 2003-04. Thereafter, again the petitioner on 05.07.2004 was

appointed as a Lecturer for Indira Gandhi Senior College on consolidated pay of Rs. 2000/-. The learned counsel submits that, the petitioner was continuously serving with the respondents, however, the respondents did not issue appointment order to the petitioner and in 2012, the petitioner was transferred to Rajiv Gandhi College and is working there. The petitioner is entitled for regularization as per the Government letter dt. 31.05.2006. The respondents are exploiting the petitioner. Though no appointment order was issued for the period 2006 to 2011, the petitioner was in service with respondent No. 6, and in 2012 transferred the petitioner to respondent No. 5-Rajiv Gandhi College.

3. Shri. R. R. Mantri, learned counsel for respondents No. 4 to 6 submits that, the petitioner was appointed on clock-hour basis only and was never appointed as a regular Lecturer. In 2006, with the permission of the University the selection process was conducted by respondent No. 4 for employing the regular candidates on substantive posts. Two candidates were appointed. The petitioner was not issued with any appointment letter after 2006. In 2012, on sympathetic grounds, the respondent No. 4 has appointed petitioner on clock-hour basis with respondent No. 5. No right is created in favour of the petitioner. The Government letter dt. 31.05.2006 would also not help the petitioner.

4. We have heard learned counsel appearing for the respective parties.

5. There is nothing before us to conclude that the petitioner was in continuous service since the year 2003 till date. There are only two appointment orders placed on record i.e. the appointment order dt. 10.07.2003 appointing the petitioner as Lecturer on clock-hour basis with respondent No. 6 and the appointment order dt. 05.07.2004 appointing the petitioner temporarily for one year on a consolidated pay. It also appears that, under appointment order dt.25.06.2005 the petitioner was appointed for one year on consolidated pay of Rs. 2000/- on unaided basis. It also appears that, on 01.07.2010 the appointment order was issued to the petitioner by respondent No. 6 for the year 2006-07 on consolidated pay of Rs.2000/- on unaided basis.

6. It is further not disputed that, since the year 2012, the petitioner is now serving with respondent No. 5 on clock-house basis.

7. Respondent No. 4 had conducted selection process in the year 2006 and two candidates were appointed. The selection process was upon sanction by the University and the appointments given to

those persons have been approved by the University. There is nothing on record from either side to show that the petitioner had appeared in the selection process.

8. The Government letter dt. 31.05.2006 would not enure to the benefit of the petitioner. In the year 2005-06, the petitioner did not possess the M.Phil qualification also. The petitioner could secure M. Phil qualification in the year 2007. Prior to that the petitioner was unqualified. The petitioner admittedly does not possess NET/SET qualification, however, possess M. Phil. qualification in the wyear 2007. However, after 2007, there is nothing on record to show that the petitioner was working either with respondent No. 5 or respondent No. 6. Even the selection process conducted in 2006 was never challenged.

9. In light of the above, in absence of any record of the petitioner working continuously with respondent No. 6 till the year 2011, the prayer made by the petitioner cannot be considered.

10. The Writ Petition is accordingly disposed of. No costs.

[A. M. DHAVALA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE