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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2756 OF 2017

Bhagwan N. Elmame

.. Petitioner

Vs.

Krantiveer Vasantryao Narayanrao

Naik Shikshan Prasarak Sanstha & Ors.

.. Respondents

Mr. Dilip Bodake for the petitioner.

Mr. Sandeep D. Shinde for respondent nos.1 & 2.

Mr. Akshay Purkar I/b. Ketan Joshi for respondent no.5.

Ms. M.S. Bane, AGP, for respondent no.4.

CORAM : A.K. MENON, J.

DATED : 15TH JANUARY, 2019.

P.C. :

1. The challenge in this petition is to a judgment dated 8th December, 2016 passed by the College Tribunal, Pune, in Appeal no.9 of 2014(P). The impugned judgment dismisses the appeal. The fact leading up to the filing of the appeal are that the respondent no.1 manages the respondent no.2 college affiliated to the Pune University. The management had issued an advertisement inviting applications to the post of Assistant Professor in the different subjects including one for Commerce. The post was a reserved for O.B.C. / N.T. category candidates. The petitioner had applied and was interviewed on 1st

October, 2011 by a Selection Committee which selected and issued him an appointment order. He was on probation for two years. According to the appellant although he was working on that post he was not being paid salary and he was nevertheless compelled to appear for a second interview for the same post on 17th May, 2012.

2. It is the petitioners' case that unless he complied with those directions, his proposal would not have been forwarded to the respondent no.3 University for approval. He succumbed to the pressure and appeared for the interview on 5th October, 2012. Strangely the petitioner claims that, even prior to that, the management orally terminated his services on 4th October, 2012 without notice.
3. An appeal came to be filed being appeal no.26 of 2012 which was unconditionally withdrawn since according to him the respondents contended that he was allowed to resume duties but no salary was paid and being a physically disabled person, he approached the competent authority under Section 62 and 63 of the Handicapped Persons (Equal Opportunities, Protection of Rights and Involvement) Act, 1995. Being aggrieved he also filed the appeal no.9 of 2014 (P) claiming that respondent no.1 did not issue notice of termination contemplated the appointment order.

4. According to the respondents, he was duly qualified at the time of his first appointment itself. He had appeared for the last semester examination for M.Com and his results were awaited and that he had disclosed this fact to the Selection Committee who approved of his candidature and appointed him knowing fully well that he was scheduled to receive his results. Yet, it was contended that he was not qualified since the appropriate certification was not available.
5. According to the petitioner, the Selection Committee took a compassionate view considering his disability. He therefore submitted that the rejection of the appeal did not consider this aspect of the matter and he therefore claimed that the impugned order deserves to be set aside.
6. On perusal of the impugned order, it is revealed that the tribunal has observed that the petitioner did not in fact possess the Master of Commerce (M. Com.) degree and that the petitioner had deceived the college management and the University. Thereupon he abandoned his services and did not attend the college from 30th December, 2011. I find nothing wrong in the observations recorded in the impugned order. It is not in dispute that the petitioner appeared for the interview pursuant to a fresh advertisement was issued. Had he been in service

there was no question of appearing for an interview for a second time. His contention in the appeal that he was engaged right from his first appointment and was forced to attend the second interview cannot be believed. There is nothing to suggest that he continued to work and he was not paid the salary. The impugned judgment records the fact that the tribunal had gone through all the materials on record and heard the arguments. The petitioner had also filed 16 documents. After considering all these, it was found that the petitioner was not qualified as per the U.G.C guidelines right from his appointment in the first place. The finding is to the effect that once having attended the second interview pursuant to an advertisement which clearly mentioned the requisite qualifications which he did not possess, there is no question to consider his candidature. What is pertinent to note that the appellant-petitioner at the second interview submitted a mark sheet which was dated 1st March, 2012 whereas his first appointment was on 13th October, 2011, clearly establishing that he has not qualified as on the date on which he was selected. In this view of the matter, the management found him unsuitable even after the second interview. Meanwhile the petitioner had already withdrawn the first appeal that he had filed. No reasons were given for withdrawing the appeal except that an Application under the Persons with Disabilities Act was then pending.

7. In any event, the impugned order is a reasoned order which does not display any perversity or illegality. In the circumstances, the challenge must fail and I pass the following order;

(i) Writ petition dismissed.

(ii) No orders as to costs.

(A.K.MENON,J.)

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