

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

PUBLIC INTEREST LITIGATION NO.85/2018

Anilkumar Waktuji Thaware

Vs.

State of Maharashtra and others.

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.....
Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

.....
Shri M. P. Kariya, Advocate for the petitioner.

Ms. N. P. Mehta, Assistant Government Pleader for the respondent
Nos.1 to 3.

Shri R. V. Shirolkar, Advocate for the Intervenor.

CORAM : **R.K. DESHPANDE &
MILIND N. JADHAV, JJ.**

DATED : **07th NOVEMBER, 2019**

1. The petitioner claims to have filed this petition in public interest seeking direction to the State of Maharashtra to set up the committee and recover an amount of Rs.9,000/- (Rs. Nine Thousand only) wrongfully paid to the persons, who were not entitled to get it under the various Government Resolutions. It further seeks a direction to cancel their posting as Associate Professor and implement the Government Resolution dated 30.01.2012. The petition also seeks a direction to the respondent No.1 to initiate departmental enquiry of the respondent No.2 to 4, who are the Government officials.

2. On 23.01.2019, this Court has passed an order as under :

“The complaint in this petition is that about 64 employees have been wrongfully granted Rs.9000/- academic grade pay. The Government Resolution dated 22.11.2018 is placed on record constituting the Committee for making enquiry. The Committee was supposed to submit the report within a period of one month from the date of issuance of Government Resolution. But, as yet, report has not been received.

Put up this matter on 20.03.2019.

In the meantime, the Committee shall proceed with the enquiry and submit the report to this Court.”

3. Thereafter, on 20.03.2019, the order was passed as under :

“We are informed that in response to the order dated 23.01.2019 passed by this Court, the Committee constituted has submitted the report.

The deficiencies pointed out in the report are to be taken care of. The verification of academic grade pay granted to the employees is required to be done.

The rectification be done within a period of eight weeks from today. Appropriate steps be taken accordingly.

Put up on 12.06.2019.”

4. The affidavit is filed before this Court by the respondent No.1 and 2 stating that the Committee has scrutinized all the fixations of Career Advancement

Scheme of Associate Professor and it came to the notice of the respondents that there were 134 Government Employees for fixation of CAS rather than 113. Accordingly, report dated 08.01.2019 was forwarded. In para 7 of the affidavit dated 24.07.2019, the stand is taken as under :

“The meeting was held by the committee which was constituted as per G. R. dated 05.08.2013 and this committee on dated 17.07.2019 at Jamnalal Bajaj Institute Of Management Studies, Mumbai interviewed 25 Assistant Professor who were promoted to the Associate Professor as their fixation was done after 30.06.2010. The names of the said employees are included in Annexure C and D of the committee’s report dated 08.01.2019. The interview was conducted under the Chairmanship of Secretary Higher and Technical Education Department, Mumbai. Out of Assistant Professors one Smt. Deepa Hirani do not fulfil the minimum requirement of publishing three research papers during assessment therefore her promotion to the Associate Professor is not recommended by the committee members. Further another Assistant Professor Urjit Karvande has qualified on 13.04.2014 and therefore the committee members have revised his promotion date. Also one Smt. Lata Patil has qualified on 10.04.2010 and therefore the committee members have revised her promotion date. Remaining 22 proposals of Assistant Professors recommended by the committee

members were in order. The said proposals of 25 employees will be finalised as early as possible and accordingly the G.R. with respect to the rectification will be issued by the Respondent no. 1 i.e. State Government, along with G.R. granting approval to promotions under CAS.”

We are satisfied about the stand taken by respondents on the entitlement of the release of the amount of Rs. 9000/- (Rs. Nine Thousand only).

5. It appears that the petitioner is in Government service and there is no averment in the petition that for filing the present writ petition for public interest, permission of the Competent Authority was obtained as required by the rules. The petitioner in his affidavit filed under Rule 7 of the Bombay High Court Public Interest Litigation Rules, 2010 given an undertaking to pay costs as shall be ordered by this Court, if it is ultimately held that the petition is frivolous or has been filed for extraneous consideration and lacks bonafide. We fail to understand as to how the petitioner is concerned with the benefits granted to the teachers working under the collages/institutions run by the education department of the State Government. The petitioner claims to be an active social worker and we are not satisfied about the bonafides of the petitioner. Apart from the fact that the Public Interest Litigation cannot be entertained in service matters.

6. We therefore, dismiss this petition and direct the petitioner to pay costs of Rs. 15,000/- (Rs. Fifteen Thousand only) to the High Court Legal Aid Services Authority, Nagpur within a period of eight days from today, failing which the concerned Department of the State Government, with whom the petitioner is employed, shall recover such amount from the salary payable to the petitioner.

7. Any observations by this Court shall not come in the way of any of the parties aggrieved by the report furnished by the State Government and placed on the record of this Court. All challenges in that respect are kept open.

JUDGE

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