

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

REVIEW APPLICATION ST. NO.2397 OF 2020
IN
WRIT PETITION NO.6419 OF 2019

The State of Maharashtra
through its Secretary, Higher
and Technical Education Department,
Mantralaya, Mumbai and anr.

..Applicant

Versus

Udaykumar s/o Vaijanathappa Dhanure
and ors.

..Respondents

Mr P.G. Borade, A.G.P. for applicant
Mr S.V. Warad, Advocate for petitioner in W.P.
Mr V.K. Patil, Advocate for respondent no.4 in W.P.
Mr S.S. Choudhari, Advocate for respondent no.3 in W.P.

**CORAM : S.V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 24.1.2020

ORAL ORDER :

1. The review is sought of the order dated 4.12.2019 in Writ Petition No.6419 of 2019.
2. The learned A.G.P. submits that in place of the petitioner, another person was appointed and salary is paid to another person till 30.6.2016. If the present applicant is again directed to pay the salary to the non-applicant then it would amount to payment of salary to two persons for the same post. According to learned A.G.P. this aspect was not considered while deciding the Writ Petition.
3. In fact, this plea was not raised while the matter was argued by the present applicant.

4. However, Mr Warad, learned Counsel for petitioner submits that considering the precarious situation of the present non-applicant, non-applicant waives claim of backwages as against the present applicant till 30.6.2016 and would be satisfied if the present applicant is directed to pay the salary from 1.7.2016.

5. In view of the consensus given by the present non-applicant, we direct the present applicant to pay the salary to the present non-applicant - employee from 1.7.2016. We have passed this order in view of the submissions of the learned Advocate for the employee on the basis of his instructions and the affidavit filed that the non-applicant would waive the backwages till 30.6.2016.

6. The learned A.G.P. further submits that the petitioner was appointed on clock hour basis and not as full time teacher. We, however, repel this argument in toto in view of the order dated 4.12.2019 passed by this Court in Writ Petition No.6419 of 2019 which is accepted by the present applicant. The said argument is fallacious and does not stand.

7. Review Application accordingly disposed of. The salary shall be paid to the petitioner from 1.7.2016 regularly and all the arrears shall be paid within three months from today.

(SHRIKANT D. KULKARNI, J.)

(S.V. GANGAPURWALA, J.)