

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

REVIEW APPLICATION ST.NO.35238 OF 2019
IN
WRIT PETITION NO.6957 OF 2019

The State of Maharashtra and anr. .. Applicant

Versus

Dr. Tasneen Anjun S.N. Zakkiuddin ..Respondent

Mr V.M. Kagne, A.G.P. for applicant
Mr S.G. Chapalgaonkar, Advocate for original petitioner in W.P.

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

DATE : 24.1.2020

ORAL ORDER :

1. Mr Kagne, learned A.G.P. for applicant submits that this Court on the basis of judgment in Writ Petition No.1273 of 2018 dated 11.2.2019 has allowed the writ petitions filed by the present non applicant and awarded five non compounded advance increments as per the clause 7(i) of the Government Resolution dated 12.8.2009. However, in the present case, clause 7 (iv) of the Government Resolution dated 12.8.2009 would apply. The petitioner's past services have been considered while protecting his pay scale and appointing the petitioner to the post of Associate Professor. In view of that, past services were considered. In Writ Petition No.1273 of 2018, the past services of the petitioner therein was not considered. As such, same was not relevant judgment in deciding the writ petition of the present non applicant.

2. Mr Chapalgaonkar, the learned Counsel for the respondent/non applicant submits that, present non applicant was appointed after undergoing fresh selection process and not on the basis of past service. Only for pay protection past service was considered. According to the learned counsel, this issue is also considered by the Division Bench of this Court at Nagpur in Writ Petition No.3300 of 2010 dated 15.3.2018 and the same was also relied in the writ petition.

3. We have considered the submissions canvassed by the learned counsel for respective parties. In fact, the petitioner herein is similarly situated as petitioner in Writ Petition No.3300 of 2010 decided by the Division Bench of this Court at Nagpur under judgment dated 15.3.2018. Para No.13 of the said judgment reads thus :

“13. In view of this discussion, pay protection becomes an independent exercise which has got no bearing of advance increments. Advance increments are to be granted only to a teacher in Junior College, who is recruited as lecturer with Ph. D., while pay protection is admissible to even a teacher without such Ph. D.”

4. It is submitted that, the judgment of the Division Bench of this Court at Nagpur in Writ Petition No. 3300 of 2010 has been implemented by the State and benefits as per the judgment have been according to the said petitioner. In the light of the pronouncement of the Division Bench of this Court at Nagpur, there is no error apparent on the face of record. The review application as such is disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V. GANGAPURWALA, J.)