

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

WRIT PETITION NO. 10885 OF 2015

Shri Manohar Shivajirao Bodake

... Petitioner

Vs

1 President, Grievance Committee,
Shivaji University, Kolhapur & Ors.

... Respondents

Mr. Dilip Bodake for the Petitioner.

Mr. Vikram N. Walawalkar for the Respondent No.1.

Mr. P.M. Arjunwadkar for the Respondent Nos.2 & 3.

Mr. B.V. Samant, AGP, for the Respondent – State.

**CORAM : S.C. DHARMADHIKARI &
R.I. CHAGLA, JJ.**

THURSDAY, 13TH FEBRUARY, 2020

P.C. :

1 The earlier order of this Court required an affidavit to
be filed.

2 We have noted that in this affidavit the Joint Director
of Higher Education, Kolhapur Region, Kolhapur has raised
issues which stand concluded by the order and direction of this

Court.

3 As was expected from him, this Joint Director says that the petitioner continued to serve as full-time lecturer in Respondent No.4 – Senior College from 29th June, 2001, till his retirement on 31st May, 2017. However, he is not possessing the educational qualification other than Master of Arts in Economics and B.Ed. Degree. A Resolution of the Government of Maharashtra dated 27th June, 2013, requires the Government to exempt only those lecturers in senior colleges appointed prior to 23rd October, 1992 and they stand exempted from acquiring the minimum qualifications NET/SET clearance. The petitioner's case is not covered by this Government Resolution for he was not appointed as a lecturer in a senior college. He was appointed in a junior college. The petitioner served during the period 23rd October, 1992 to 3rd April, 2000, but without the minimum qualifications. Hence, the applicable pension cannot be released to him.

4 After having perused all previous orders of this Court, we are of the opinion that we are bound by the same. None of the

previous orders have been challenged by the parties before us. Therefore, they also are bound by the said orders.

5 As far back as on 8th March, 2000, in the Civil Writ Petition filed by the petitioner before this Court, being Civil Writ Petition No. 2638 of 1999, he had prayed that an order of the second respondent to that petition, namely, the University, dated 1st November, 1995, be quashed and set aside. The petitioner be declared to be on par with other senior college teachers / lecturers. Though he is a surplus employee, this declaration should be issued and all the emoluments, including back wages be paid to him. There is a prayer during the pendency of the petition to allow the petitioner to join as a lecturer, not in the college in which he was initially appointed, but some other college.

6 Now, such a petition was disposed of with the consent of all parties by an order dated 8th March, 2000. Pertinently, the State of Maharashtra is Respondent No.1 to this petition. This order dated 8th March, 2000, reads as under :

“MINUTES OF ORDER

1 Heard both sides, Respondent No.5 deleted, on petitioner's application. Respondents Nos.1 to 4 and 6 waives service, Rule returnable forthwith.

2 The impugned order dated 1.11.1995 [Exhibit V] and order dated 18.2.1999 [Exhibit 'C'] are quashed and set aside and instead the following order is substituted.

3 It is declared that the petitioner is deemed to be confirmed as permanent lecturer in service from the date of his appointment i.e. 16.1.1989 and having regard to the workload he is declared as surplus lecturer. Petitioner is therefore entitled as such to all the benefits including continuity of service at par with his counter part as surplus lecturer in senior college. The Petitioner shall be given posting as a lecturer in Loknete Hanmantrao Patil Mahavidyalaya Arts & Commerce Sr. College, Vita, Dist. Sangli or any other senior college at the earliest and in any event before 30th June, 2000 by Respondent No.2.

4 In lieu of this the petitioner has waive his right to receive back wages ordered in his favour by Respondent No.6 by its order dated 18th February, 1999 and any other backwages against Respondent No.3 and 4. No demand for wages including regular wages will be made in future and the Respondent No.3 and 4 will not be liable to pay any amount whatsoever to the petitioner towards any claim whatsoever.

5 *In view of the aforesaid direction the Writ
Petition is disposed off. No order as to costs.”*

7 On a perusal of this order, it is evident that the directions of the University were set aside. The petitioner before us is deemed to be confirmed as a permanent lecturer in service from the date of his appointment, namely, 16th January, 1989 and having regard to the work-load, he is declared as surplus lecturer. He was granted all benefits, including continuity of service on par with other lecturers and directed to be posted as lecturer in Loknete Hanmantrao Patil Mahavidyalaya or any other senior college at the earliest and, in any event, before 30th June, 2000. Accordingly, the petitioner was appointed by the Management in compliance of this order. The petitioner joined the concerned college. The service of the petitioner was recognised as permanent. The Joint Director may say anything on oath, but it is evident that the petitioner's appointment is reckoned from 16th January, 1989. The issue with regard to attaining the minimum qualification of NET/SET does not arise in this case.

8 In the facts peculiar to this case and in the light of the

order passed on 8th March, 2000, in the petitioner's Civil Writ Petition, we direct that the petitioner be treated as a duly qualified lecturer in a senior college appointed with effect from the date of the order passed by this Court and all his pensionary benefits be computed accordingly. The petitioner shall get the pensionary benefits with effect from 1st March 2000 as the petitioner has completed his qualifying service as his appointment is from 16th January, 1989, and since he has given up voluntarily the back wages, we direct that in facts peculiar to this case, the pensionary benefits be computed with effect from 1st March, 2000. This direction that the pensionary benefits be computed and the pension be released is on the footing that the petitioner has duly fulfilled the requirement of minimal or qualifying service for pension. The pension be drawn and the arrears of pension be released with effect from the date of superannuation. The pensionary benefits be worked out after the petitioner's pay scale as a senior lecturer is duly determined. This entire process be concluded within a period of two months' from today.

9 This order is passed in the peculiar facts and circumstances of this case and shall not be treated as a precedent. The Writ Petition, accordingly, stands disposed of.

R.I. CHAGLA, J.

S.C. DHARMADHIKARI, J.