

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

Rajesh V.
Chittewan

Digitally signed
by Rajesh V.
Chittewan
Date: 2020.10.21
11:46:25 +0530

WRIT PETITION NO.2317 OF 2020

Prabhakar L. Dhotre

... Petitioner

Versus

The State of Maharashtra

And Others

... Respondents

.....

Mr. Narendra Bandiwadekar with Vinayak Kumbhar i/b Mr. Ashwini Navjyot Bandiwadekar for the Petitioner.

Mr. V.M. Mali, AGP for Respondent Nos.1, 2, 6 and 7.

.....

**CORAM : S.C. GUPTA &
MADHAV JAMDAR, JJ**

DATE : 20 OCTOBER 2020

P.C. :

. The subject matter of this petition concerns pension and other retirement benefits payable to the Petitioner, who worked with Respondent No.5-college run by Respondent No-4-trust.

2 The Petitioner was working in the post of Peon with effect from 1 January 1995 originally with the trust and later with effect from 15 November 1997 with Respondent No.5-college. His appointment was duly approved by Joint Director of Education, whereupon grant-in-aid was released and the Petitioner continued to receive his salary. Upon

completion of his probation period, he was confirmed in the post of peon with approval of the Education Department. Nearly after more than twenty two years of his appointment, in August 2020, when his salary was not credited for the previous month, and when he approached Respondent No.5, he realized that at the time of his appointment, he was overage and a proposal submitted by Respondent No.4 trust to the State Government for condonation of his overage was rejected. This led to the Petitioner filing a writ petition. A Division Bench of this court, which allowed that writ petition, made a declaration in his favour in terms of prayer clause -(c) of the petition. Prayer clause-(c) is quoted below:

“(c) By a suitable writ, order or direction, this Hon’ble Court may be pleased to hold and declare that the appointment of Petitioner as peon in Respondent No.5 College was and is legal and valid and hence there was/is no necessity to obtain any order from Respondent No.1 for relaxation of over age of the Petitioner at the time of said initial appointment, and hence, Respondent Nos.2, 4 and 5 be directed to continue to pay the monthly salary and other allowances and benefits to the Petitioner in the post of peon in Respondent No.5 College continuously and regularly.”

3 Accordingly, the Petitioner continued to be a permanent employee, receiving salary through grant-in-aid from time to time. When he was about to superannuate, Respondent No.4 submitted his pension papers to Respondent no.2-Joint Director, Higher Education.

When his pension papers were under process, the Petitioner retired from services with effect from 31 March 2019. His pension papers, however, were returned by Respondent No.2, purportedly on the ground that a proposal had been submitted to the State Government for condoning overage in his case and that proposal had not yet been decided. This has led to the Petitioner approaching this court once again by the present petition.

4 The above narration makes it clear, on the very face of the record, that there was no question of the Petitioner's overage being condoned by any statutory authority. That order was already passed by this court when his earlier petition was disposed of by granting him relief in terms of prayer clause -(c), which is quoted above. Be that as it may, in the affidavit now filed on its behalf, the State has taken a stand that condonation of overage in the case of the Petitioner has been accepted by the Directorate of Education, Higher Education and accordingly, his papers have been sent to the Office of the Accountant General for necessary action.

5 Since, in any event, the controversy as to overage of the Petitioner at the time of his appointment has now been finally laid at rest and only the ministerial part of processing and approving his pension papers now remains to be accomplished, no further orders are necessary on this petition, except to direct Respondent No.7-Accountant General to expeditiously process pension papers of the

Petitioner and cause pensionary benefits to be paid to him. Respondent No.7 shall process the papers and issue the necessary orders for payment of pensionary benefits within three months from today. The writ petition is disposed of accordingly.

6 This order will be digitally signed by the Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(MADHAV JAMDAR, J.)

(S.C. GUPTE, J.)