

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

953 WRIT PETITION NO.4739 OF 2021

ANAND VISHWANATHRAO KULKARNI
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Advocate for Petitioner : Kadam Vishant P.
AGP for Respondents State: Mrs P V Diggikar

CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.

DATE : 17th March, 2021.

ORDER:

1. Learned A.G.P. waives notice for the respondents.
2. Mr. Kadam, learned counsel for the petitioner submits that petitioner pursuant to the advertisement issued by the respondent was appointed as an 'Assistant Professor' on 23.06.2010. The petitioner seeks benefit of Government Resolution dated 12.08.2009, more particularly, Clause 7 (i) and claims five non-compounded advance increments on the ground that the petitioner possesses Ph.D. qualification.
3. The learned counsel further submits that the petitioner joined at Junior college as a Teacher in Commerce. Thereafter petitioner acquired Ph.D. on 14.08.2002 and joined as Assistant Professor at Senior college on 23.06.2010.
4. We have considered the submissions canvassed.
5. The Government Resolution dated 12.08.2009 takes retrospective effect from 01.01.2006. Clause 7 (i) and Clause 7 (iv) reads thus

“(7)Incentives for Ph.D. / M. Phil. and other higher qualifications :

(i) Five noncompounded advance increments shall be admissible at the entry level of recruitment as Assistant Professor to persons possessing the degree of Ph.D. awarded in the relevant discipline by the University following the process of admission, registration, course work and external evaluation as prescribed by the UGC/ICAR in its Regulation.

(ii)

...

(iii) ...

(iv) Teachers who complete their Ph.D. Degree while in service shall be entitled to 3 non-compounded increments if such Ph.D. is in the relevant discipline and has been awarded by a University complying with the process prescribed by the UGC / ICAR for enrollment, course work and evaluation, etc in its Regulation.”

6. We had asked the learned A.G.P.for the respondents as to whether the past services of the petitioner were considered while appointing the petitioner on the post of ' Assistant Professor', the answer was in the negative. The appointment of the petitioner on the post of 'Assistant Professor' was a fresh appointment made after the petitioner had undergone the selection process conducted pursuant to the advertisement issued by the respondent inviting application for the post of 'Assistant Professor'. The petitioner after participating in the selection process is selected and appointed as an 'Assistant Professor' on 23.06.2010. Clause 7 (i) of the Government Resolution referred to supra provides that five non-compounded advance increments shall be admissible at the entry level of recruitment as Assistant Professor to persons possessing the degree of Ph.D. awarded in the relevant discipline by the University following the process of admission, registration, course work and external evaluation as

prescribed by the UGC /ICAR in its Regulation. The Clause 7 (iv) relied would operate if the teacher completes their Ph.D. degree in service in the relevant discipline and has been awarded by a University complying with the process as applied by the UGC / ICAR for enrollment, course work and evaluation etc in its Regulation. The petitioner had completed his Ph.D. when the petitioner was working at Junior college as a Teacher in Commerce. The petitioner acquired Ph.D. on 30.09.2005. It was thereafter through a fresh selection process the petitioner joined as Assistant Professor at Senior college on 23.06.2010. The past service of the petitioner rendered as Teacher in commerce is not considered while appointing the petitioner as an 'Assistant Professor'. As the petitioner possesses the Ph.D. qualification at the time of entry level as an 'Assistant Professor', the petitioner certainly would be entitled for five non-compounded advance increments as per Clause 7 (i) of Government Resolution dated 12.08.2009.

7. In the light of above, the Clause 7 (iv) and 7 (vi) do not apply. The said benefit shall be given to the petitioner expeditiously and preferably within three (3) months. The benefit of three non-compoundable advance increments shall be adjusted.

8. Writ petition accordingly stands disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V.GANGAPURWALA, J.)

JPC