

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

WRIT PETITION NO. 5164 OF 2021

Mohd. Shafiuddin Mohd Shamshoddin,
Age : 60 Years, Occu. : Retired,
R/o Flat No. 7, Syed Plaza,
Sharif Colony, Roshan Gate,
Aurangabad.

.. Petitioner

Versus

1. The State of Maharashtra,
Through the Secretary of
Higher Education Department,
Mantralaya, Mumbai – 32.
 2. The Director Higher Education,
Maharashtra State, Pune.
 3. The Joint Director Higher Education,
Aurangabad Division, Aurangabad.
 4. Dr. Babasaheb Ambedkar
Marathwada University, Aurangabad,
Through its Registrar.
 5. Chistia College of Arts and Science,
Through its Principal,
Khultabad, Dist. Aurangabad.
- .. Respondents

Shri R. R. Deshpande, Advocate h/f Ms. Priyanka R. Deshpande,
Advocate for the Petitioner.

Shri S. K. Tambe, A.G.P. for Respondent Nos. 1 to 3.

Shri K. M. Suryawanshi, Advocate for the Respondent No. 4.

Ms. A. N. Ansari, Advocate for the Respondent No. 5.

CORAM : S. V. GANGAPURWALA AND
R. N. LADDHA, JJ.

DATE : 08TH SEPTEMBER, 2021.

ORAL JUDGMENT (*Per S. V. Gangapurwala, J.*) :-

. Rule. Rule made returnable forth with. With the consent of parties taken up for final hearing.

2. The petitioner assails the order dated 20th November, 2020 to the extent services of the petitioner are regularized from the date of Government Resolution dated 27th June, 2013. The petitioner seeks CAS benefit considering the service rendered from 01st July, 1992.

3. Mr. Deshpande, the learned advocate for the petitioner submits that, the petitioner was appointed as a librarian under appointment order dated 01st July, 1992 on probation for a period of two years. The petitioner's services thereafter were continued. The petitioner was appointed after selection by duly constituted selection committee of the university. The learned counsel submits that, as the petitioner is appointed from 01st July, 1992, it is not incumbent upon the petitioner to possess NET/SET qualification. The learned counsel further submits that, UGC regulation dated 19th September, 1991 requiring the candidate to possess NET/SET qualification is made effective in the State under Government Resolution dated 23.10.1992. In view of that, the impugned order regularizing the services of the petitioner

with effect from the date of G. R. dated 27.06.2013 is erroneous.

2. Mr. Tambe, the learned Assistant Government Pleader for respondents/State submits that, the petitioner does not possess NET/SET qualification. As the petitioner does not possess NET/SET qualification, the petitioner is not entitled for CAS benefit. The G. R. dated 27.06.2013 does not entitle the petitioner for CAS benefit. The services of the petitioner are also regularized from 27.06.2013 and for pension purpose also service of the petitioner would be considered from 27.06.2013.

3. We have also heard Ms. Ansari, the learned advocate for the respondent/institution.

4. It appears from the appointment order placed on record that the petitioner is appointed with effect from 01st July, 1992 on probation for a period of two years. The impugned order itself clarifies that the petitioner is appointed by the selection committee duly constituted by the university. The impugned order also specifies that the petitioner is appointed from 01st July, 1992 on probation, however, services of the petitioner are considered regular from 27.06.2013.

5. The Government Resolution dated 27.06.2013 clarifies that the UGC regulations dated 19th September, 1991 requiring a candidate to possess NET/SET qualification is made effective in the state under G. R. dated 23.10.1992. The petitioner is

appointed prior to 23.10.1992. The judgment of the Special Bench of this Court states that, those who are appointed on and from 24.10.1992 till 03rd April, 2000 and not possessing NET/SET qualification are not entitled for CAS benefit. The petitioner is appointed prior to 23.10.1992. On the date the petitioner was appointed, the state had not made applicable UGC regulations dated 19th September, 1991 and the said G. R. would stand applicable with effect from 24.10.1992.

6. It is also not the case of respondents that, after completing probation period, the petitioner was not continued in service. The petitioner is in continuous service from the date of his initial appointment from 01.07.1992. No break in service exists. The petitioner is deemed to be confirmed employee after completing probation period.

7. In the light of that, the services of the petitioner would be deemed to be continuous from 01.07.1992 i. e. prior to the G. R. dated 23rd October, 1992 and as such would not require NET/SET qualification. Reliance can be had to the judgment of the Division Bench of this Court in a case of Uttam R. Patil Vs. State of Maharashtra reported in *2020 (2) Mh.L.J. 784*. The Division Bench of this Court in a case of Uttam R. Patil Vs. State of Maharashtra (supra) has clearly observed that the UGC regulations dated 19.09.1991 which had introduced the qualification of NET/SET shall not be made applicable to the teachers who are appointed prior to 23rd October, 1992.

8. Apart from NET/SET qualification, the petitioner possesses qualification for the post of librarian. Same is not disputed fact.

9. In view of the above, the impugned order regularizing the services of the petitioner from 23rd June, 2013 is quashed and set aside. The petitioner shall be deemed to be regular in service from 01st July, 1992. In view of the above, the petitioner shall be entitled for all the benefits applicable to a duly qualified librarian and not required to possess NET/SET qualification. The benefits flowing from the above order shall be given to the petitioner expeditiously and preferably within a period of four (04) months from today.

10. The rule is made absolute in above terms. No costs.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]

bsb/Sept.21