

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

WRIT PETITION NO. 8724 OF 2021

Suklal Bansilal Marathe

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

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

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

The Respondent Nos. 4 and 5 are served.

Shri Sanjay Trikolikar, Advocate for the Respondent No. 6 –
absent.

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

DATE : 05TH OCTOBER, 2021.

FINAL ORDER :

. Mr. Deshpande, the learned counsel for the petitioner submits that, the petitioner was appointed as Assistant Professor on 01st December, 1992. He was possessing qualification of M.A. English B+. The approval is also granted to the appointment of the petitioner. The petitioner was selected by duly constituted selection committee of the university. The approval is granted to the services of the petitioner. The petitioner on attaining age of superannuation retired on or about 31st May, 2014.

2. The learned Advocate submits that the pension proposal is rejected on the ground that the petitioner does not possess NET/

SET qualification. At the relevant time the exemption was granted from possessing NET/SET qualification. The petitioner possesses the required qualification. On the date of appointment the petitioner was possessing the post graduate degree.

3. The learned Assistant Government Pleader supports the order passed by the Joint Director, Higher Education and submits that as the petitioner was not possessing requisite qualification he was not entitled for pension. Approval was also granted to him subject to clearing the NET/CET qualification. The learned A. G. P. relies upon the Government Resolution dated 27.06.2013 and submits that in view of the said Government Resolution also the petitioner would not be entitled for old pension scheme and would be governed by the DCPS.

4. We have considered the submissions canvassed by the learned Advocates for the parties.

5. The Government Resolution dated 27.06.2013 was subject matter of consideration before the Principal Seat at Bombay in Writ Petition No. 13166 of 2017 decided on 03.10.2018. In the said writ petition, the petitioner therein was not possessing NET/SET qualification and was appointed in the year 1998. He was also denied pension on the ground that he was not possessing NET/SET qualification. The Division Bench in the said case considered the Government Resolution dated 27.06.2013 and observed as under-

“ ...

8. It can be thus seen that vide aforesaid G.R., the State Government has exempted the lecturers who are appointed between 23/10/1992 to 03/04/2000 and who were not possessing the net-set examination, M.Phil. and Ph.D. qualification. Only requirement is that the appointment of these lecturers is required to be made after following due selection process. The other requirement is that appointment of such lecturers ought to have been approved by the University and University should have submitted the proposal for grant of approval of such teachers to the University Grant Commission.

...”

6. The petitioner has retired on 31.05.2014. The benefit of the said Government Resolution can be accorded to the petitioner. The said Judgment of the Division Bench of this Court has been confirmed by the Hon'ble Apex Court. The S.L.P. filed against the said Judgment is dismissed.

7. The said Judgment is subsequently followed by the Division Bench of this Court at Nagpur in Writ Petition No. 2068 of 2019 dated 29.07.2019. The S.L.P. filed against the said Judgment is also dismissed. The said judgment is again followed by the Division Bench of this Court in Writ Petition No. 11316 of 2015 under Judgment and order dated 28.08.2019.

8. In the light of above, the impugned order dated 10.02.2021 denying pension to the petitioner is quashed and set aside. In case, there is no other impediment, the respondents shall make the pension applicable to the petitioner on the basis of his last

salary drawn. The pension proposal shall be processed preferably within a period of three (03) months from today and the arrears be paid preferably within a period of three (03) months thereafter.

9. The writ petition is allowed in above terms. No costs.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]

bsb/Oct.21