

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3414 OF 2021

Shaikh Saleem Qutbuddin	...	Petitioner
Vs.		
Accounts Officer, Higher Education, Solapur and others	...	Respondents

Mr. S. G. Kudle for Petitioner.
Mrs. P. G. Gavhane, AGP for Respondent Nos.1, 2 and 5.
Mr. Pratik Rahade with Mr. P. N. Joshi for Respondent No.3.
Mr. Tassawar Sagari for Respondent No.4.

**CORAM : R. D. DHANUKA &
R. N. LADDHA, JJ.**

DATE : DECEMBER 08, 2021

P.C. :-

Rule. Mrs. Gavhane, learned AGP waives service for respondent Nos.1, 2 and 5. Mr. Rahade, learned counsel waives service for respondent No.3 and Mr. Sagari, learned counsel waives service for respondent No.4. By consent of parties, petition is heard finally.

2. By this petition under Article 226 of the Constitution of India, petitioner seeks an order and direction against the respondents to count the petitioner's services right from his initial appointment i.e., 8th August 1992 till the date of voluntary retirement i.e., 31st July 2019; direction to respondent No.1 to furnish the last pay certificate to enable respondent No.4 to complete the entire process of preparation of pension papers as early as possible and the consequential reliefs.

3. Writ petition is opposed by respondent No.1 on the ground that the petitioner had joined the post of an Assistant Professor on 21st June 1993. His appointment was on ad-hoc basis as he had not cleared NET / SET examination.

4. Learned counsel for respondent No.4 tenders affidavit in reply and would submit that respondent No.4 would co-operate with the petitioner in submitting the proposal of the petitioner for pension and other retiral benefits to the Accounts Officer. He further states that respondent No.4 is not opposing the case of the petitioner. Statement is accepted. Affidavit-in-reply is taken on record.

5. Mr. Kudle, learned counsel for the petitioner tendered before this Court a copy of the Government Resolution dated 29th October 2021 allowing the payment of pension to the teachers who were appointed during the period from 23rd October 1992 to 3rd April 2000 without passing any NET / SET test from the date of their initial appointment.

6. Learned AGP could not dispute that the said Government Resolution dated 29th October 2021 would apply to the petitioner who was appointed on ad-hoc basis from 21st June 1993 and thereafter was appointed on regular basis.

7. In our view, the petitioner was not required to pass any NET / SET examination for the purpose of appointment, initially or at the time of confirmation in view of the said Government Resolution dated 29th October 2021. The petitioner is thus entitled to get the payment of pension considering his initial date of appointment. We accordingly pass the following order:-

- (a) Respondent No.4 is directed to submit the proposal to respondent Nos.1 to 3 for pension and other retiral benefits of the petitioner within two weeks from today with a copy to be served upon the petitioner's advocate simultaneously;
- (b) Upon receipt of such proposal, respondent Nos.1 to 3 shall consider and dispose of the said proposal within four weeks and send the papers to the Accounts Officer simultaneously; and

(c) The Accounts Officer shall release the payment within two weeks thereafter.

8. Writ Petition is allowed in the aforesaid terms. Rule is made absolute accordingly. There shall be no order as to costs.

9. Parties to act on the authenticated copy of this order.

(R. N. LADDHA, J.)

(R. D. DHANUKA, J.)

Minal Parab