

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6491 OF 2014

Gajbhar Chandrashekhar Revansidha ... Petitioner
Vs.
State of Maharashtra and others ... Respondents

Mr. Prashant Bhavake for Petitioner.
Ms. Sushma Bhende, AGP for Respondent-State.
Mr. A. B. Tajane a/w. Mr. Y. G. Thorat for Respondent Nos.4 and 5.

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

DATE : DECEMBER 06, 2021

P.C. :-

Rule. Ms. Bhende, learned AGP waives service for respondent Nos.1 to 3-State. Mr. Tajane, learned counsel waives service for respondent Nos.4 and 5. By consent of parties, petition is heard finally.

2. By this petition filed under Article 226 of the Constitution of India, the petitioner has impugned the letter dated 22nd July 2013 from respondent No.3 refusing to issue the last pay certificate of the petitioner and not determining the amount of pension and gratuity due to the petitioner.

3. The petitioner had joined as Laboratory Assistant in the year 1974 and was confirmed in the said post on 31st March 1978 with effect from 20th November 1977. He completed his educational qualification of M.A. (Sociology) for the post of Lecturer in the year 1982.

4. The Management advertised the post of Lecturer in Sociology in the year 1996. The petitioner was issued letter of appointment for the said post in respondent No.4 College on 20th June 1996. The said appointment was approved by the University on 23rd February 1999.

5. On 18th October 2001, the State Government issued a Government Resolution by which the services of non-NET/SET teachers appointed after 11th December 1999 were directed to be terminated before they completed probation. Large number of petitions were filed in this Court impugning the validity of the said Government Resolution. The petitioner retired by way of superannuation on 30th September 2012 on attaining the age of 60 years. The College thereafter forwarded his documents to the Joint Director claiming pension, gratuity and other post-retirement benefits payable to the petitioner and also for issuing Last Pay Certificate. However, the Senior Auditor of respondent No.3, on 22nd July 2013, instructed the College to send the documents and confirm whether the petitioner had cleared eligibility and consequently, refused to issue Last Pay Certificate. Petitioner thus filed this petition.

6. Mr. Bhavake, learned counsel for the petitioner tendered a copy of the Government Resolution dated 29th October 2021 issued by the Government during the pendency of the writ petition and would submit that in view of the said Resolution, during the period when the petitioner was appointed, there was no need to pass NET/SET examination. By the said Resolution, it is directed that those employees, who had not passed NET/SET examination during the particular period, would not be required to produce any such certificate. Their services would not be terminated on that ground and that they would be entitled to pension. Learned counsel placed reliance on the judgment of this Court delivered on 23rd November 2021 in Writ Petition No.404 of 2021 (*Mangal Arvind Patil Vs. State of Maharashtra*) and other batch of petitions. He submits that the said judgment delivered by this Court would squarely apply to facts of this case.

7. Ms. Bhende, learned AGP could not dispute that by the said Government Resolution dated 29th October 2021, those employees who had not passed NET/SET examination during the particular period

would not be required to produce any such certificate and that they would be entitled to pension. She strongly urged before this Court that this Court shall not pass any order for payment of interest since the issue was pending initially before this Court, thereafter before the Hon'ble Supreme Court and followed by the issuance of Government Resolution dated 29th October 2021.

8. This Court in the case of **Mangal Arvind Patil** (*supra*), after adverting to the Government Resolution dated 29th October 2021, had directed the Education Officer to release payment in respect of the proposal that was submitted by the Management if there was no dispute about payability of the amount with interest at the rate of 8% per annum from the due date till payment.

9. Mr. Bhavake, learned counsel for the petitioner states that in this case though the Management had submitted a proposal for payment of pension and other retiral benefits to the petitioner, the said proposal was returned by respondent No.2 - Joint Director of Higher Education on the ground that the petitioner was not entitled to pension and other post-retiral benefits.

10. In view of the Government Resolution dated 29th October 2021 which is issued during the pendency of this petition, we direct the Management to send a fresh proposal of the petitioner to the Joint Director of Higher Education by relying upon the said Resolution within four weeks from today with a copy to be served upon the petitioner's advocate. The Joint Director of Higher Education shall consider and dispose of the said proposal within four weeks thereafter. If any amount is due and payable to the petitioner as per the said Government Resolution dated 29th October 2021, the same shall be paid to the petitioner within four weeks from the date of disposal of the proposal with interest at the rate of 6% per annum from the date of the said Government Resolution i.e., 29th October 2021. We hope that the Joint

Director of Higher Education would apply the said Government Resolution in its right perspective while taking the decision on the proposal that would be submitted by the Management.

11. If for any reason the proposal is decided against the petitioner, petitioner would be at liberty to file appropriate proceedings. If the proposal that would be submitted by the Management is accepted by the Joint Director of Education, the Joint Director of Education shall forward the same to the Accountant General for releasing payment of pension with interest to the petitioner for payment which shall be made within four weeks thereafter as directed in the earlier paragraph of this order.

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

13. Parties to act on an authenticated copy of this order.

(R. N. LADDHA, J.)

(R. D. DHANUKA, J.)

Minal Parab