

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2266 OF 2002  
WITH  
CIVIL APPLICATION NO. 2522 OF 2003

Pranita Vinayakrao Gujar. ... Petitioner.

V/s.

State of Maharashtra and others. ... Respondents.

WITH  
WRIT PETITION NO. 6950 OF 2003

Mr.Jitendra Dyandeo Sonawane. ... Petitioner.

V/s.

State of Maharashtra and others. ... Respondents.

Mr.N.V.Bandiwadekar with S.C.Wakankar and P.B.Gujar  
for the Petitioner in WP No.2266/2002.

Mr.Sanjiv A. Sawant i/b. Abhishek Deshmukh  
for the Petitioner in WP No.6950/2003

Mr.Nitin Dhumal for Respondent Nos.4 and 5 in WP  
No.2266/2002 and for Respondent Nos.3 and 4 in WP  
Nos.6950/2003.

Mr.N.C.Walimbe, AGP for the State.

**CORAM :**            **NITIN JAMDAR AND  
C. V. BHADANG, JJ.**

**DATE :**            **24 March 2021.**

**P.C. :**

Writ Petition No.6950/2003, though challenges the  
order passed by the School Tribunal, has been directed by the order

dated 14 March 2006 passed in Writ Petition No.2266/2002 by the Division Bench presided over by the learned Chief Justice to be heard along with Writ Petition No.6950/2003 and also by another order dated 1 April 2010. Accordingly, the petitions are taken up for consideration.

2. In Writ Petition No.6950/2003, The Petitioner-Jitendra Sonawane has challenged the order passed by the School Tribunal, Pune, dated 22 April 2003. The School Tribunal has dismissed the appeal filed by the Petitioner- Sonawane being Appeal No.49/2001 whereby he had challenged otherwise termination of services from 3 June 2001. Rule was issued in this petition on 16 October 2003, and thereafter the petition is simpliciter pending. There is no interim order in this petition.

3. To a query to the learned counsel for the Respondent-Management as to why no proposal is yet submitted regarding de-reservation of the post, it was informed that both Petitioner-Sonawane in Writ Petition No.6950/2003 and Petitioner-Gujar in Writ Petition No.2266/2002 are contesting for the same post and since Writ Petition No.6950/2003 is pending, the proposal was not submitted. Thus the simpliciter pendency of Writ Petition No.6950/2003 in this fashion, however, severely prejudices the rights of the Petitioner- Pranita Gujar in Writ Petition No.2266/2002, who is seeking direction to the Respondents to treat her post of Full-time Lecturer in Travel and Tourism as regularized

and the post she is holding be de-reserved. This petition is also pending since 2002. There is no restraint order in Writ Petition No.6950/2003. Smt. Gujar is not made party respondent in the said petition.

4. We have considered the merits of the writ petition No.6950/2003 filed by Mr Sonawane, challenging the correctness of the order of the School Tribunal. The School Tribunal has dismissed the appeal on the ground that Shri Sonawane was not qualified. There is no perversity in the said finding. The qualification for Full-time Lecturer in Travel and Tourism is specified in the Government Resolution dated 10 August 2000. The requirement is of Master degree of a statutory university with at least Second Class in Travel and Tourism subject at degree or post-graduate level. Shri. Sonawane did not possess this qualification. The argument is that there was no such requirement specified in the advertisement and that approval was granted by the Education Officer and, therefore, the qualification deemed to have been waived. As the Tribunal has rightly noted, once it is the qualification required in law, then non-mentioning of the same does not mean that the qualification stood waived. As regards the approval by the Education Officer, the Tribunal has noted that approval was for a specific period subject to the availability of regular candidate with required qualifications. Therefore, the Tribunal was correct in holding that since Shri. Sonawane was not qualified for holding the post of Full-time Lecturer in Travel and Tourism, no order directing

reinstatement could be passed. The order passed by the Tribunal is legal and correct, and there is no perversity in the same. Thus the Writ Petition No.6950/2003 is liable to be dismissed. Furthermore, nothing is placed on record by way of any additional affidavit as to where Petitioner-Mr. Sonawane is currently working. The order of otherwise termination is of two decades ago, the appeal is dismissed by the Tribunal, and there is no interim order.

5. The Writ Petition No.6950/2003 is dismissed. Rule is discharged with no order as to costs.

6. As regards Writ Petition No.2266/2002, it is not necessary for us to finally conclude in this petition whether the post which Smt. Gujar is holding is to be de-reserved as no proposal is yet submitted by the Respondent- Management in respect of de-reservation. Writ petition 2266 of 2002 is disposed of as follows.

7. The Respondent- Management will submit a proposal to Respondent No.3- Deputy Director within six weeks from today. The proposal so submitted will be processed further by Respondent No.3 within eight weeks thereafter by submitting it to the State Government. After the proposal is so submitted by Respondent No.3, the Respondent- State will take a decision thereupon within eight weeks thereafter and communicate the same to the Petitioner and the Respondent- Management.

8. The position that Petitioner- Smt. Gujar is working on

the post and is not being paid any salary, cannot be countenanced. The Respondent- Management will immediately commence payment of monthly salary to Smt. Gujar from February 2021 onward. It is open to the Management to claim reimbursement, if it is so entitled, from the admissible grant. Regarding the question of arrears, the same would depend on the outcome of the proposal. Rule is made absolute in Writ Petition No.2266/2002 in the above terms. In view of disposal of petition, pending civil application is also disposed of.

9. Both the petitions are disposed off as above.

(C.V. BHADANG, J.)

(NITIN JAMDAR,