

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 584 OF 2016

Mrs. Chhaya A. Dhamanaskar

... Petitioner.

V/s.

The State of Maharashtra & Ors.

... Respondents.

Mr. Atharva Dandekar, Advocate a/with Ms. Akshata Naik i/by
Kalaimagal Mogili for the Petitioner.

Mr. Dushyant Kumar, AGP for the State -Respondent Nos. 1 to 3.

Mr. Rui A. Rodriques, Advocate for Respondent No.4.

Mr. Rahul Nerlekar, Advocate for Respondent Nos. 5 & 6.

**CORAM : R.D. DHANUKA & R.N. LADDHA, JJ.
DATE : DECEMBER 10, 2021.**

P.C. :

1 Rule. Learned AGP waives service of Rule on behalf of the State - Respondent Nos. 1 to 3, Mr. Rui Rodriques, learned Counsel waives service on behalf of University of Mumbai - Respondent No. 4 and Mr. Rahul Nerlekar, learned Counsel waives service on behalf of Respondent No. 5 & 6.

2 By consent of the parties, the Petition is heard finally.

3 By this Petition filed under Article 226 of the Constitution of India, the Petitioner prays for issuance of writ of certiorari, order or directions for calling and setting aside the order dated 27th August, 2012 passed by the Respondent Nos. 1 and 3 and also seeks the order and directions against the Respondent Nos.2 to 6 to notionally upgrade

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the Petitioner to the post of Lecturer in the Degree College w.e.f. July 1986 till January, 2005 and make payment of arrears of salary.

4 The Petitioner retired some time in the year 2005. The Petitioner had filed Writ Petition No. 3269 of 1987 in this Court, inter alia, praying for writ of certiorari against the Respondent No.1 therein – the University of Mumbai, rejecting the approval of appointment of the Petitioner as Lecturer in the Senior College. By order dated 6th October, 1997 passed by this Court in Writ Petition No. 3269 of 1987, this court rejected the said Writ Petition.

5 After dismissal of the said Writ Petition, the Petitioner once again made representation before the Grievance Redressal Committee of the University of Mumbai. On 27th June, 2008, the University of Mumbai conveyed the order of the Grievance Redressal Committee, informing the College that as a P5 Category teacher, the Petitioner deserved protection and up-gradation to the post of Lecturer. However, this court while disposing of the said Writ Petition relied upon the Notification dated 21st January, 1982. In the recommendation of the Committee, it is held that the said Notification does not supercede Government Resolution dated 21st January, 1982, benefiting the qualified and protected teachers to be upgraded as Lecturers. The aggrieved party was working as a demonstrator in the degree college from 1986 till the retirement and, therefore, she was required to be considered for up-gradation to the Lecturer's post from the date of availability of workload since she had qualification for degree college. The University informed the Respondent No. 5-

College that the Management Council accepted the said recommendation of the Grievance Committee and requested the College to take necessary action to implement the recommendation of the Grievance Committee narrated in the said communication dated 27th June, 2008.

6 Respondent No. 5 College thereafter addressed a letter dated 23rd September, 2008 to the Joint Director, Higher Education, Mumbai Region, requesting him to look into the case of the Petitioner for upgradation to the lecturer's post from the date of availability of workload and give the benefits of the same. There was no response to the said letter from the Joint Director, Higher Education. The Petitioner, thereafter, continued to make various representations to the Respondent Nos. 1 to 3 for grant of approval in terms of the recommendations made by the Grievance Redressal Committee and requested to accept those recommendations of the Grievance Committee, accepted by the Management Council of the University and followed by the letter of the College. There was, however, no response to any of these representations. The Petitioner thus filed this present petition.

7 Though this Court vide order dated 6th October, 1997, rejected the earlier Petition filed by the Petitioner on certain grounds, considering the Government Resolution dated 21st October, 1982 in the grievance made by the Petitioner to the Grievance Redressal Committee constituted under section 57 of the Maharashtra Universities Act, 1994, the Grievance Redressal Committee reconsidered its decision and observed that the said Notification as considered by this Court does not supercede the Government

Resolution dated 21st January, 1982 issued at earlier point of time. The Management Council accepted the said recommendation made by the Grievance Committee and that the Management Council in turn directed the Respondent No. 5 College to look into the grievance of the Petitioner and take necessary action to implement the recommendations of the Grievance Redressal Committee. In view of the recommendations made by the Grievance Committee to the University which are accepted by the Management Council of the University and on the request of the Respondent No. 5 college, to consider the case of the Petitioner for upgradation by the Respondent No. 1. We pass the following order :

ORDER

(i) The Respondent No.2- the Director of Higher Education, Pune is directed to pass appropriate orders on the recommendations of the Grievance Redressal Committee which are accepted by the Management Council of the University of Mumbai followed by the letter dated 23rd September, 2008 addressed by the Respondent No. 5 College to the Joint Director for up-gradation of the Petitioner to the Lecturer's post from the date of availability of workload and thereafter to give benefits of the same, after giving the personal hearing to the Petitioner, within six weeks from the date of hearing to the Petitioner.

(ii) The Petitioner is directed to remain present before the Respondent No. 2 on 17th December, 2021 at 11 a.m.

(iii) If the date assigned above is not convenient to the Respondent No.2, an early date shall be communicated to the Petitioner three days in advance.

(iv) The order that would be passed by Respondent No.2- Director of Higher Education, Pune, shall be communicated to the Petitioner within one week from the date of the order.

(v) It is made clear that since the Petitioner has retired in the year 2005, the Respondent No. 2 shall consider the notional benefits i.e. the claim for notional upgradation of the Petitioner to the post of Lecturer in the Degree College with effect from July, 1986 till January, 2005.

(vi) The order that may be passed by the Respondent No. 2, if goes adverse to the Petitioner, the Petitioner would be at liberty to file appropriate proceedings.

(vii) If the order that would be passed is in favour of the Petitioner, all consequential benefits shall be granted by the Respondent No.2 to the Petitioner, within four weeks thereafter.

(viii) Writ Petition is allowed and Rule is made absolute in the above terms with no order as to costs.

Parties to act on an authenticated copy of this order, duly issued by the Registry of this Court.

(R.N. LADDHA, J.)

(R.D. DHANUKA, J.)

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