

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

948 WRIT PETITION NO.8988 OF 2021

Dr. Mirza Intekhab Akber Baig

.. Petitioner

Versus

The Vasantryao Naik Marathwada
Krishi Vidyapeeth Parbhani

.. Respondent

...

Advocate for Petitioner : Mr. Vishant P. Kadam

Advocate for Respondent : Mr. M.N. Navandar

...

**CORAM : MANGESH S. PATIL &
SANDEEP V. MARNE, JJ.**

DATE : 18-08-2022

ORAL ORDER (*PER* SANDEEP V. MARNE, J.) :

1. By way of the present petition, the petitioner seeks payment of five non-compounded advance increments as per the Government Resolution dated 15.07.2010. As a matter of fact, by order passed on 09.03.2021 five non-compounded increments earlier granted to him came to be withdrawn and replaced by three non-compounded increments. Even though the petitioner has not specifically challenged the order dated 09.03.2021, we have proceeded to examine its legality.

2. The facts of the case, in nutshell, are as under :

1. The petitioner was appointed on the post of Junior

Research Assistant on 31.05.2006 and thereafter came to be selected and recruited on the post of Senior Research Assistant through nomination on 24.09.2007. He acquired Ph.D. on 31.01.2012. In the meantime, by order dated 03.08.2011 he came to be temporarily promoted to the post of Assistant Professor. Later, by order dated 22.06.2015, he was granted regular promotion to the post of Assistant Professor.

3. The Government of Maharashtra has issued Government Resolution dated 15.07.2010 for revision of pay scales of teachers and equivalent cadres in Maharashtra Animal and Fishery Sciences University. Para - 7 of the Government Resolution provides for incentives for Ph.D. / M.Phil and other higher qualifications. Para - 7 (i) and (iv) are relevant to the present case, which reads thus :

“(7) Incentives for Ph.D / M.Phil and Other Higher Qualifications:

(i) Five non-compounded advance increments shall be admissible at the entry level of recruitment as Assistant Professor to persons possessing the degree of Ph.D. awarded in the relevant discipline by the University following the process of admission,

registration, course work and external evaluation as prescribed by the UGC/ICAR in its Regulation.

(ii)

(iii)

(iv) Teachers who complete their Ph.D. Degree while in service shall be entitled to 3 non-compounded increments if such Ph.D. is in the relevant discipline and has been awarded by a University complying with the process prescribed by the UGC/ICAR for enrollment, course work and evaluation, etc in its Regulation.”

4. It is the petitioner’s case that he had acquired the qualification of Ph.D. before his movement on the post of Assistant Professor and therefore, he is governed by the provisions of para - 7 (i). He further contended that his case cannot be governed by the provisions of para - 7 (iv) as he cannot be treated as a teacher who has completed Ph.D. degree while in service.

5. Per contra, it has been contended on behalf of the respondent - University that the petitioner has not been directly recruited on the post of Assistant Professor and therefore, he cannot be governed by the provisions of para - 7 (i).

6. Having heard the learned Counsel for the parties, the short issue that is involved in the present petition is, whether the petitioner's movement on the post of Assistant Professor can be treated as recruitment? If the petitioner was already holding Ph.D. qualification and was recruited as Assistant Professor, undoubtedly he would be governed by the provisions of para 7 (i) and would be entitled to five non-compounded advance increments. However, perusal of the order dated 22.06.2015 makes it clear that the petitioner has been promoted on the post of Assistant Professor. When the petitioner acquired the qualification of Ph.D., he was undoubtedly in service and would accordingly be governed by the provisions of para - 7 (iv). We are, therefore, of the opinion that the case of the petitioner cannot be governed by the provisions of para - 7 (i) of the Government Resolution.

7. Mr. Kadam has relied upon decision of this Court in **Dr. Jayshree Ramrao Rodge Vs. The State of Maharashtra and**

another, Writ Petition No.1273 of 2018 decided on 11.02.2019.

We have gone through the said decision and it is seen that this Court has arrived at a conclusion that the petitioner therein was directly recruited on the post of Assistant Professor without any relation to the earlier post of Lab Assistant held by him. As against this, in the present case, it is common ground that the petitioner has been promoted to the post of Assistant Professor. Therefore, the decision cited by Mr. Kadam is of no assistance to the petitioner.

8. We are, therefore, of the opinion that there is no infirmity in the decision taken by the respondent. Writ Petition is dismissed. Interim protection stands vacated.

9. No order as to the costs.

(SANDEEP V. MARNE, J.)

(MANGESH S. PATIL, J.)