

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT NAGPUR, NAGPUR.

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WRIT PETITION NO. 958 /2018

* Ashok s/o Mahadeorao Gawai
Aged about 55 years, occu; Assistant Professor,
J.D.Patil Sangludkar Mahavidyalaya,
Daryapur, R/o At Hayapur
Po: Kamalpur (Taroda), Tah. Anjangaon Surji
Dist.Amravati.

..PETITIONER

versus

1) State of Maharashtra
Through Principal Secretary
Higher and Technical Education
Department, Mantralaya,
Mumbai-32.

2) The Director of Higher Education
State of Maharashtra
Central Building
Pune-1.

3) The Joint Director of Higher Education
Government Vidarbha Institute of Science
and Humanities Premises
Amravati-4.

4) The Registrar
Sant Gadge Baba Amravati University,
Amravati.

5) The President
Shri Shivaji Education Society
Shivaji nagar, Amravati.

6) The Principal,
J.D. Patil Sangludkar Mahavidyalaya
Daryapur Tah. Daryapur
Dist. Amravati.

..RESPONDENTS

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Mr. Raj Wakode, Advocate for Petitioner
Ms. S.S. Jachak, AGP for respondent nos.1 to 3
Ms. S.K. Pathak, Advocate for respondent no.4
Mr. A.P. Kalmegh, Advocate for respondent nos.5 and 6
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**CORAM: SUNIL B. SHUKRE &
ANIL L. PANSARE, JJ**

DATED: 2nd February,2022

JUDGMENT: (PER ANIL L. PANSARE, J.)

1. Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. **Rule.** Rule made returnable forthwith. Heard finally with consent of parties.

3. By means of this Writ Petition, the petitioner is seeking a direction against the respondents to release the arrears of salary of full-time Lecturer for the period from 1st April, 2001 to 31st December, 2004. A representation to that effect made by the petitioner on 25th October, 2010 has been rejected by the respondent no.3-Joint Director of Higher Education, Government Vidarbha Institute of Science and Humanities Premises, Amravati.

4. According to the petitioner, by advertisement dated 24th August 2000 published in the newspapers by the respondent no.5 -President Shri Shivaji Education Society, Amravati and respondent no.6-Principal J.D. Patil Sangludkar Mahavidyalaya, Daryapur, applications were invited for the post of full time Lecturer in various subjects, so also one part-time Lecturer in Business Economics in Commerce faculty. The petitioner has applied for the said post of part-time Lecturer in Business Economics. The Selection Committee in its meeting held on 14th October, 2000 recommended the name of the petitioner for appointment. The respondent no.6-Principal, issued the letter of appointment on 16th October, 2000 mentioning therein that the

petitioner has been appointed as part-time Lecturer in Business Economics in the senior College with effect from 16th October,2000 as per the University Grants Commission Government Rules subject to the approval of the Amravati University, Amravati and Government of Maharashtra. The said recommendation was approved by respondent no.4-University on 20th March 2001.

5. It is the case of the petitioner that on 30th March 2001, the respondent no.6 issued a communication in favour of the petitioner mentioning therein that because of the workload then existing, he has been appointed as a full-time Lecturer in Business Economics on the senior College on the pay scale of UGC /Government Rules with effect from 1st April 2001, subject to approval of Amravati University, Amravati and Government of Maharashtra. The respondent no.4-Amravati University vide its communication dated 10th December 2003 issued in favour of respondent no.6, granted approval to the appointment of the petitioner as full-time Lecturer in Commerce (Business Economics) from the academic session 2001-02 and onwards. Relying on the the aforesaid communications, the petitioner has come up with a

case that though he has been appointed as full-time Lecturer he was given salary of a part-time Lecturer for the period from 1st April,2001 to 31st December, 2004.

6. As stated earlier, the representation made by the petitioner to that effect has been rejected by respondent no.3 vide communication dated 29th April,2015 which is under challenge. The respondent no.3-Joint Director by the aforesaid communication informed the petitioner that he has been given 15 hour workload by respondent no.6-Principal with effect from 4th January, 2005 and,therefore, from the said date he will be treated as full time Lecturer. According to the petitioner, the aforesaid communication is contrary to the letter of appointment issued to the petitioner on earlier date which has been approved by the respondent no.5-University. At this stage, it has been pointed out by the respondents that the approval for the post of full time Lecturer is to be granted by the respondent no.3, then only the approval could be said to be valid approval. The petitioner does not dispute such status. It is, thus, clear that in absence of approval by respondent no.3 to the post of full-time Lecturer, the

petitioner cannot be said to be appointed as a full-time Lecturer particularly when the advertisement itself suggested that the applications were invited for the post of part-time Lecturer.

7. In addition to above, the learned Assistant Government Pleader has drawn our attention to her reply wherein it has been submitted that the petitioner was initially appointed as part-time Lecturer in Business Economic (in Commerce faculty) and not for the subject of Economics to be taught to the Arts faculty. The respondent no.6-College ought not to have asked the petitioner to teach the subject of Economics in the Arts Faculty Mathematics and Statistics. It has been further submitted that the educational qualification of the petitioner is M.A. in Economics and, therefore, he was appointed as a part-time Lecturer in Business Economics (in Commerce faculty). It has been further stated that the office of Joint Director, Higher Education, Amravati Division, Amravati, while inspecting the workload in the respondent no.6-College found that the petitioner is eligible to teach only five periods of the subject of Business Economics (in the Commerce Faculty) as the post of Lecturer in Economics in Arts stream was already

filled by the respondent nos.5 and 6. It is, then, pointed out that in order to teach all the subjects in the Commerce faculty, it is necessary to acquire M.Com post-graduate degree being a required qualification. However, the petitioner was holding the post-graduate degree in MA (Economics). Therefore, the petitioner could not have been allotted the period in other subjects in Commerce Faculty, except Business Economics. Accordingly, the petitioner was initially appointed as part-time Lecturer in Business Economics. In view of such status, the respondent no.6-College cancelled its order appointing the petitioner as a full-time lecturer by letter dated 19th September, 2001. This order has been suppressed by the petitioner.

8. Upon query made by the Court, learned counsel for the petitioner submits that the aforesaid pleadings of the respondents have not been countered by the petitioner by filing rejoinder. In other words, he admits, amongst others, that his appointment as a full-time Lecturer by respondent nos.5 and 6 has been cancelled subsequently on 19th September 2001. Despite this, the petitioner has come up with present petition seeking arrears of pay for the

period for which he has been allegedly appointed as full-time Lecturer. Such prayer has been made by the petitioner knowing fully well that his appointment as full-time Lecturer has been subsequently cancelled and that the appointment so made was not approved by respondent no.3-Joint Director. The petition, thus, fails not only on the ground of suppression of material facts but also on merits.

9. At this stage, the learned counsel for the petitioner has drawn our attention to the recommendations made by the Selection Committee in its meeting held on 15th December 2009 wherein the petitioner has been placed in a senior scale with effect from 1st April, 2006. Learned counsel, accordingly, makes a request to consider such placement. In our opinion, even the said relief cannot be granted to the petitioner, inasmuch as his basic claim stands rejected. The petitioner has not come up before the Court with clean hands and, therefore, is not entitled for any relief.

10. The petitioner has, thus, failed to make out any case.
The petition is devoid of merit, hence dismissed. Rule discharged.

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JUDGE

JUDGE