

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

...

WRIT PETITION NO. 1446 OF 2020

Dr.Anil Anand Sargar and Another

..Petitioners

versus

The State of Maharashtra and Others

..Respondents

Mr. I.G.Meshram, Advocate for Petitioners

Ms.Shamsi Haider, Assistant Government Pleader for Respondent
Nos.1 & 2.

Mr. P.D. Meghe, Advocate for Respondent No.4

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CORAM: NITIN JAMDAR &
ANIL L. PANSARE,JJ
DATED : 25 APRIL 2022.

P.C. :

Heard learned Counsel for the parties. Taken up for disposal.

2. Having found that the impugned order dated 6 November 2019 issued by the Respondent No.2-Assistant Commissioner, Social Welfare, Nagpur and the affidavit-in-reply filed on behalf of the Respondent No.2 are bereft of any details, we are constrained to set aside the impugned order, so that the Respondent No.2 will pass a reasoned order which will speak for itself.

3. The facts and the analysis for this conclusion, is as follows.

4. The Petitioners are working as Assistant Lecturers in the Respondent No.4-Social Welfare Institute. They acquired the necessary qualifications of post-graduation in Social Work, NET/SET examination and have acquired Ph.D. degree while they were in service. Relying on the Government Resolutions and Notifications/Circulars issued by the University Grants Commission, the Petitioners are claiming the benefit of three non-compoundable increments under the VII Pay Commission. A proposal to that effect was sent by Respondent No.4-Institute. However, the Respondent No.2-Assistant Commissioner, Social Welfare, rejected the proposal by the impugned order.

5. The impugned order refers to the Government Resolution dated 8 March 2019 issued by the Department of Sports and Technical Education, State of Maharashtra and Circular issued by the concerned University on 10 April 2019. Referring to these circulars/resolutions, the impugned order is passed. But as to how these circulars apply to the case of the Petitioners is not explained. In the petition, the Petitioners have taken a categorical stand that the Government Resolution dated 8 March 2019 is not applicable to the case of the Petitioners.

6. The Respondent No.4-employer of the Petitioners has filed an affidavit supporting the Petitioners' claim that they are entitled to the benefits as claimed as per the Government Resolution dated 22 September 2011.

7. The reply-affidavit filed by the Respondent No.2 is of seven paragraphs. The first three paragraphs are formal in nature and then there is a reference to the communication of the University Grants Commission of 1 November 2017, but the same is not annexed. The impugned order is restricted to two Government Resolutions and Circulars. Again, there is no explanation how they are applicable. If there were no reasons in the impugned order at least they should have been explained in the affidavit-in-reply.

8. In these circumstances, the appropriate course of action would be to set aside the impugned order and direct the Respondent No.2 to pass a reasoned order, setting out not only the Government Resolutions and Circulars but specifying their implications if the Respondent No.2 is of the opinion that the Petitioners are not entitled. If after re-examination of the matter, the Petitioners are entitled, it is open to the Respondent No.2 to take a decision accordingly. Considering that the proposal in favour of the Petitioners was submitted three years ago and that this order is necessitated because of lack of reasons by Respondent No.2, the Respondent No.2 will have to take fresh decision early.

9. Accordingly, the impugned order dated 6th November 2019 is quashed and set aside. The proposal made by the Respondent No.4 in favour of the Petitioners stands restored. The Respondent No.2 will take a decision in light of what is stated above, within a period of four weeks from the date of the order is uploaded on the server of this Court.

10. With the above observations, the writ petition is disposed of in above terms.

[ANIL L. PANSARE,J.]

[NITIN JAMDAR,J.]

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