

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR
WRIT PETITION NO. 3315 OF 2018

(Ku. Rajshree Narayanrao Kadu Vs. Shinde Shikshan Sanstha & Ors.)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri P.B. Patil, Advocate for the petitioner.

Shri K. Chiwarkar h/f Shri Anand Parchure, Advocate for respondent Nos. 1 and 2.

Ms. N.P. Mehta, Assistant Government Pleader for respondent Nos. 3 and 4/ State.

Ms. S.S. Singalkar, Advocate for respondent No.5.

CORAM : A. S. CHANDURKAR AND ANIL L. PANSARE, JJ.

DATE : NOVEMBER 24, 2022.

Heard.

The petitioner was appointed on the post of Lecturer at respondent No.2 – College run by respondent No.1 – Society. Her services were approved by respondent No.5 – University. However, on 10/3/2006, the Management otherwise terminated her services. Being aggrieved, the petitioner approached the University and College Tribunal, Nagpur by filing an appeal under Section 59 of the Maharashtra Universities Act, 1994. The learned Presiding Officer by the judgment dated 5/2/2008 held that the services of the petitioner had not been terminated. Hence, the appeal was not maintainable. Being aggrieved, the petitioner filed Writ Petition No. 1943/2008 in this Court. The learned Single Judge by the judgment dated 17/11/2008 set aside the order passed by the University and College Tribunal and directed respondent Nos. 1 and 2 to reinstate the petitioner in service with continuity as and when the petitioner reported for joining her duties. She was held entitled to backwages/ arrears of salary for the period from 10/3/2006 to 22/6/2006. Rest of the claim for backwages was denied. The petitioner then filed Letters Patent Appeal No. 67/2009 claiming the relief that was denied by the learned Single Judge. The judgment of the learned Single Judge was also challenged by respondent Nos. 1 and 2 by filing Letters Patent Appeal. In those proceedings, the petitioner and respondent Nos. 1 and 2 amicably resolved their dispute. A joint pursis dated 5/5/2009 was

filed in the said proceedings. Clause (3) thereof which is relevant for the present purpose reads as under :

“3. The appellant agrees that they shall draw the salary bill for the respondent No.3 for a period from 17.11.2008 to 30.4.2009 and the same shall be forwarded to the Joint Director of Higher Education for approval and wages during that period shall be paid to the respondent No.3 upon receipt of such approval and release of salary by the said authority. The respondent No.3 agrees to forego the back wages granted by the learned Single Judge.”

Both the Letters Patent Appeals were disposed of in terms of the pursis on 8/5/2009. The petitioner was thereafter reinstated in service on 4/6/2009. She was however not paid her salary for the period from 10/3/2006 to 3/6/2009. Though the salary bills of the petitioner for the said period were sent to the office of the Joint Director of Higher Education, the same were not cleared. The petitioner made various representations thereafter and ultimately filed this Writ Petition seeking direction that respondent No.4 be directed to release her salary for the period from 10/3/2006 to 3/6/2009 along with increments with interest. It is further prayed that she be granted third placement as Associate Professor in the pay scale of Rs.9,000/- Grade Pay from 2009 onwards.

We have heard the learned Counsel for the parties and we have also perused the documents on record placed by them. Insofar as the direction that is sought to be issued to the Joint Director of Higher Education to release the salary of the petitioner for the period from 10/3/2006 to 3/6/2009 is concerned, it is seen that the learned Single Judge while directing the petitioner's reinstatement specifically denied backwages and granted the same only for the period from 10/3/2006 to 22/6/2006. In the joint pursis filed by the petitioner and respondent Nos. 1 and 2, they had agreed to send the salary bills of the petitioner for the period from 17/11/2008 to 30/4/2009 to the office of the Joint Director. The petitioner gave-up the backwages that were granted by the learned Single Judge. We thus find that since the learned Single Judge specifically denied backwages to the petitioner, there would be no question of directing the Joint Director of Higher Education to approve the salary bills for the period from 10/3/2006 to 3/6/2009 for being paid through the State Exchequer. Such liability was not saddled on the office of the Joint Director of

Higher Education. We further find that the present Writ Petition has been filed on 9/4/2018 and the petitioner seeks relief for the period from 10/3/2006 to 3/6/2009. This relief has clearly been sought after a considerable period of time and the same suffers from delay and laches. For these reasons, we are not inclined to grant the relief sought vide prayer Clause (a) in the Writ Petition.

Insofar as the direction sought by the petitioner to grant her third placement as Associate Professor is concerned, it is to be noted that such claim along with request to grant benefits of the Career Advancement Scheme is required to be considered by the Committee appointed in that behalf. In the reply filed by respondent No.4, a stand is taken that since the petitioner was out of employment for the period from 10/3/2006 to 3/6/2009, that period cannot be considered for granting the petitioner the necessary placement. At the same time, it is to be noted that while directing the petitioner's reinstatement, the relief of continuity in service was also granted. The entitlement of the petitioner to such placement as Associate Professor is therefore required to be considered by the Committee appointed in that behalf. The effect of direction of reinstatement with continuity in service can also be considered by the said Committee. Hence, insofar as prayer Clause (b) is concerned, the petitioner shall submit all relevant documents to the Management to enable the Management to forward the claim of the petitioner of seeking her placement as Associate Professor in the pay scale of Rs.9,000/- Grade Pay from 2009 onwards. The Management shall within a period of three weeks of receiving such claim forward the same to the Committee constituted to consider grant of benefits of the Career Advancement Scheme. The said Committee shall also consider the effect of the judgment of this Court in Writ Petition No. 1943/2008 which grants reinstatement to the petitioner with continuity in service. The Committee shall take a decision in accordance with law preferably within a period of three months from receipt of such application from the Management.

The Writ Petition is disposed of with the aforesaid directions. No costs.

(ANIL L. PANSARE, J.)

(A. S. CHANDURKAR, J.)